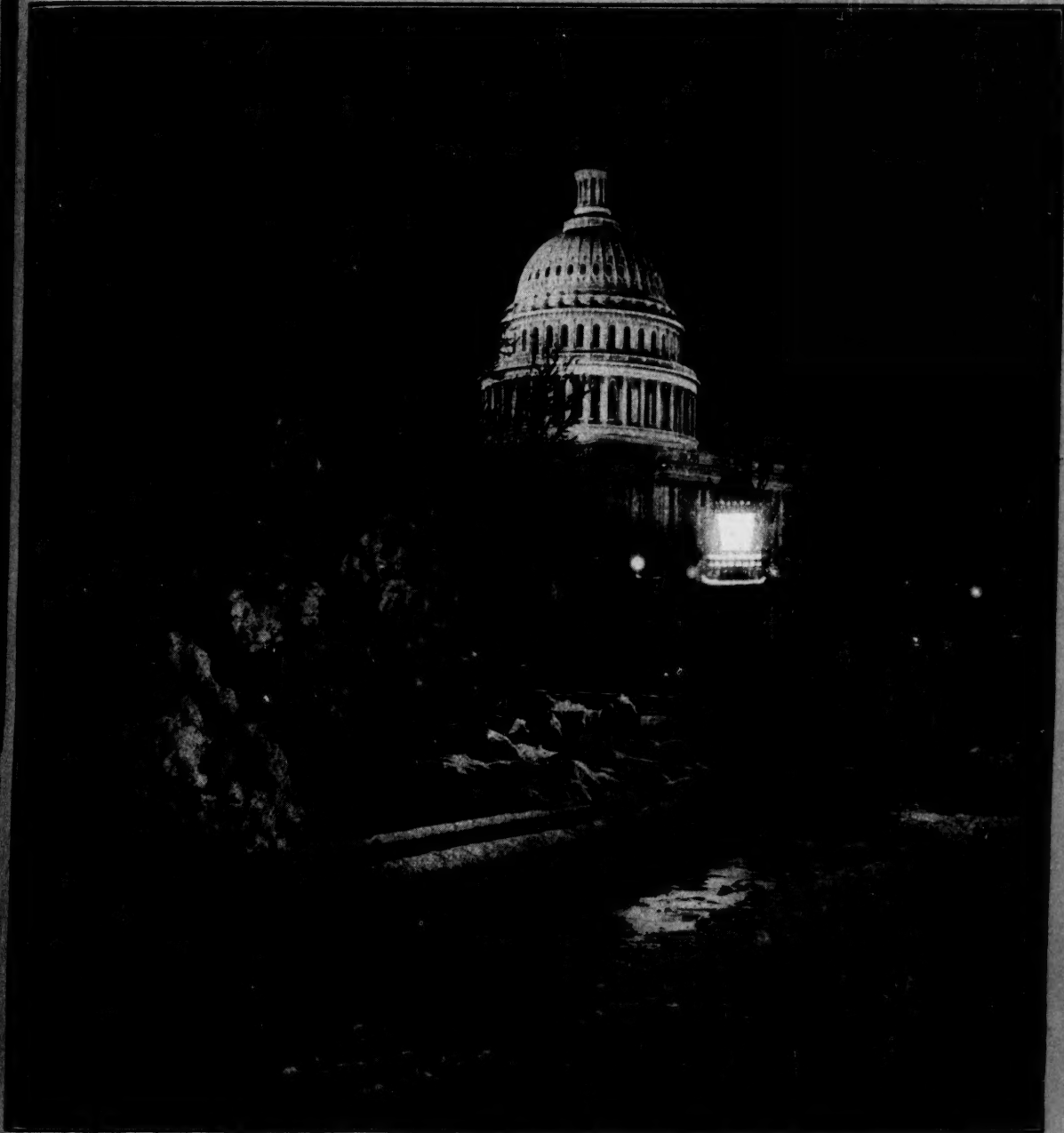




Founded 1886

LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM



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THE UNITED STATES CAPITOL ON A WINTER'S NIGHT

Hon. H. W. Sumners on Our Constitution—Hon. J. Randolph

15 CENTS A COPY

on Religious Liberty

WASHINGTON, D.C.

XU

DECLARATION OF PRINCIPLES

OF THE

Religious Liberty Association

1. We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ.
2. We believe that the ten commandments are the law of God, and that they comprehend man's whole duty to God and man.
3. We believe that the religion of Jesus Christ is founded in the law of love of God, and needs no human power to support or enforce it. Love cannot be forced.
4. We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights and to rule in civil things, and that in this realm it is entitled to the respectful obedience of all.
5. We believe it is the right, and should be the privilege, of every individual to worship or not to worship, according to the dictates of his own conscience, provided that in the exercise of this right he respects the equal rights of others.
6. We believe that all religious legislation tends to unite church and state, is subversive of human rights, persecuting in character, and opposed to the best interests of both church and state.
7. We believe, therefore, that it is not within the province of civil government to legislate on religious questions.
8. We believe it to be our duty to use every lawful and honorable means to prevent religious legislation, and oppose all movements tending to unite church and state, that all may enjoy the inestimable blessings of civil and religious liberty.
9. We believe in the inalienable and constitutional right of free speech, free press, peaceable assembly, and petition.
10. We also believe in temperance, and regard the liquor traffic as a curse to society.

For further information regarding the principles of this association, address the Religious Liberty Association, Takoma Park, Washington, D.C. (secretary, C. S. Longacre; associate, H. H. Votaw), or any of the affiliated organizations given below:

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Philippine Island Religious Liberty Association: Office, Box 401, Manila, Philippine Islands; Sec., R. R. Figuhr.

LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM

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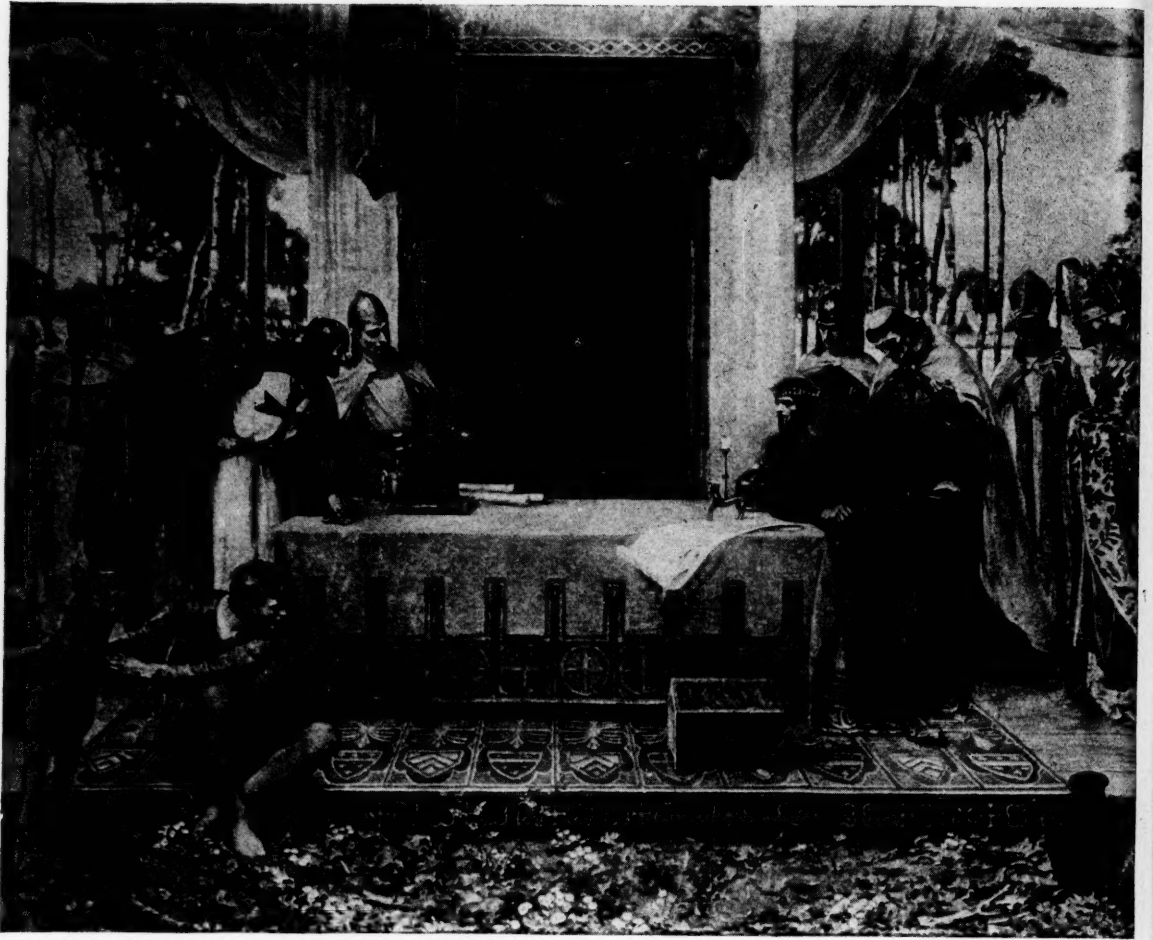
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ALBERT HERTER. ARTIST

The Famous Document Magna Charta Was Issued by King John at Runnymede in June, 1215, Under Compulsion From His Barons



The sealing, under compulsion, of the Magna Charta by King John, of England, set up one of the great mileposts in the struggle of the English people for political and religious freedom. That important event means much to American citizens; for we are the heirs of our English liberty-loving forefathers. While American liberty was gained when the mother country was ruled by a despotic king, the indomitable spirit of freedom fostered through past centuries ripened into the Declaration of Independence and was immortalized in the American Constitution after liberty had been won on the battlefields of the Revolution. May the American people never forget how the precious boon of civil and religious liberty was won through long centuries of determined effort and great sacrifice.

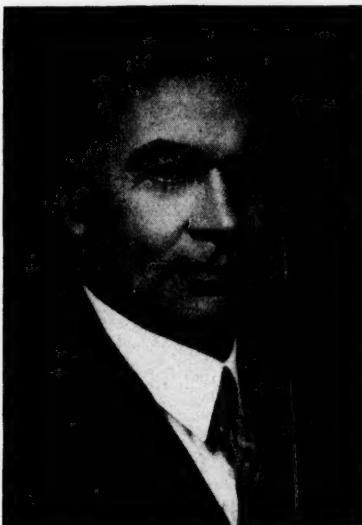
The Whence, the What, and the Why of Our Constitution*

by **HON. HATTON W. SUMNERS**

*Chairman of the Committee on the Judiciary of the
United States House of Representatives*

PERHAPS THE MOST IMPORTANT single statement which has come to us from any source, came from the Virginia Convention, to the effect that there can be no liberty without frequent recurrence to fundamental principles. There was never a time in our governmental history when that recourse was more necessary than at this time. I shall attempt to discuss our Constitution fundamentally, I hope understandingly, and in a way that will be of practical value to the average citizen. In our policy of government there must be a mixture of practical common sense exercised in obedience to fundamental natural law which limits human discretion and determines sound governmental policies, just as it is necessary for the physician to know the natural laws which govern the human body in the practice of his profession and to use practical, common sense under the guidance of those laws.

Before we can do our official tasks properly, we must understand the facts with regard to our Constitution; before we can really begin to understand the facts with regard to our Constitution, it will be necessary to rid our minds of the mythological tales which we have been accustomed to hearing and believing with reference to it. We must discard the story we have been told from childhood that once upon a time there lived a group of supermen who met in a Constitutional Convention, and, as a creative act of their own minds and wills, gave to us our Constitution. That is as fantastic as the tales of Grecian mythology. This story accredits to men something as impossible of human accomplishment as the accomplishments accredited to the Grecian gods. The constitution of a living government is a living thing. It can exist only as it is rooted in the governmental concepts of a living people, and draws its sustenance,



HARRIS & EWING
Hon. Hatton W. Sumners

its vitality, from the governmental capacity of that people. It is a historically demonstrated fact that human beings, in a creative sense, never wrote the constitution of any living government.

Notwithstanding these facts, may I warn you in the beginning that it is not going to be easy to get rid of these inherited notions which are renewed from time to time by our Fourth of July orators. My observation and experience have disclosed that it is far more difficult to get rid of an inherited notion, a thing which has been accepted without having first been approved by our reason, than to get rid of an erroneous idea which our judgment has erroneously accepted. Apparently, because the idea did not enter through the doorway of our own examination and mental approval, it is the more difficult to oust by the exercise of reason and judgment. I stress this because of the importance of this riddance first, if we are to have a place in our minds for the truth. Trying to clear our minds of this false notion reminds me of the experience I used to have as a boy on my father's farm in Tennessee, trying to break up some of our sitting hens from their sit-down strikes on the laying proposition. The hens seemed even more obstinate when we had used a white doorknob instead of a nest egg, as we sometimes did. Often when I thought one of those hens had got this sitting idea out of her mind and was thinking about something else, I would look around and find her sitting on the same old doorknob.

Beginnings of Our Constitution

Let us begin to examine the facts with reference to our Constitution as distinguished from these mythological tales which our Fourth of July orators delight to tell us and which they have done great hurt by telling. We get the first glimpse of our Constitution, the one we now have, in the same century in

* This is the first of a series of articles on the Constitution, by Congressman Sumners, written exclusively for the LIBERTY magazine.

which Christ was born. A famous Roman historian, Tacitus, gives to us this vivid picture. He tells us that when the Germanic tribes, the Angles, Saxons, and Jutes (later known as the Anglo-Saxons), had an important governmental matter to settle, the tribes gathered for that purpose. When they were assembled, they sat down armed. Some leader presented the matter for their consideration. If the people were persuaded, they brandished their weapons, which was a vote of approval. If they did not favor the proposition, they murmured, and that settled it. That was a negative vote. Tacitus completes the picture by telling us that these leaders were influential, as they had the power to persuade as distinguished from the power to command. Thus we see the place of the leaders and the place of the people in an Anglo-Saxon system of government when the machinery of government was simple enough to come definitely within our clear comprehension.

Government by the People

May I suggest that you look at this picture until you can see that meeting as with your eyes. Here come the individual members of the tribes out of the German forests. After a while they sit down armed, and the priest calls them to order. It is his business to preserve order. The chief men of the tribes have already discussed the matter, thoroughly considered it no doubt. Somebody comes forward, probably the person of greatest influence in the tribe. He submits to the judgment of these individuals that which they have been assembled to consider. When the matter has been discussed and considered, the vote is taken and the people speak the voice of government.

Fundamentally, there has been no change in that Anglo-Saxon system of government during the almost two thousand intervening years. There can be no fundamental change without an abandonment of the Anglo-Saxon system of government, because it is a government by the people, which utilizes the knowledge of persons in a position to know, in a position to study matters, in a position to be advised. The people may yield to the influence of persuasion, but the voice and might of government go from the people upward as distinguished from commands from the leaders and rulers downward.

Beginning of Anglo-Saxon Government

We find now, as Tacitus found then, a government of the people functioning upward from the people, who are the source of governmental authority and power. That was our infant Constitution. A few centuries after Tacitus wrote, our blood ancestors, and our governmental ancestors as well,—the Angles, the Saxons, and the Jutes,—left their Germanic homes and settled by conquest in England, bringing

with them and planting in English soil their governmental institutions. In the earliest governmental organizations of the Germanic tribes after their settlement in England, every freeman was entitled to his place in the general deliberations, as in the days when Tacitus wrote. But as the tribes grew and were consolidated into principalities, and these into petty kingdoms and finally into larger ones, it became more and more impossible for the individuals to participate in the details of the government. Individuals were too far from the seat of government. Problems of government became more and more complex. In that situation the council of chiefs, called "witenagemot" (wise court), came to have distinct governmental powers in the central government, but the original popular government continued to function as to local matters.

By what other indirect governmental agencies public problems were considered, it is not now possible to determine with certainty. It is clear, however, that during all the vicissitudes of English history, while tribes were blended into principalities, and these principalities, in turn, into petty kingdoms, and the petty kingdoms into one kingdom,—even during the period of the Norman conquest,—these local popular governments, similar to that which Tacitus observed, continued to exist and function, and through the exercise of governmental responsibility in these local units of government, the individual citizens permitted to participate therein preserved and developed by that exercise the power and capacity and authority of the people to govern. That is the most important single fact connected with the long history of Anglo-Saxon government. As the problems of government necessarily increased, in that proportion, speaking generally, the people increased their governmental capacity.

Beginning of Representative Government

During the thirteenth century, the tendency of popular governmental power began definitely to unite and move up from these smaller units of government toward the central government. There is a good deal of the mist of uncertainty which hangs over that most interesting period. Just what degree of influence the individual citizens had in the central government is not clear, but it is clear that there was then a very definite limitation under their general constitution upon the power of the king to tax without the consent of the people.

In 1213 King John called a council in which representatives of the people were in attendance. In 1265 Simon de Montfort called a conference of representatives of the people which many students of parliamentary history hold was the beginning of the English Parliament.

(Continued on page 29)

The Development of Religious Liberty

Its Significance in American History

by **HON. JENNINGS RANDOLPH**

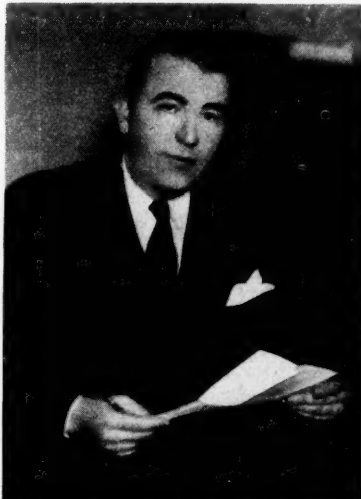
Member of Congress From West Virginia

WE OFTEN FAIL to cherish the possessions we have until the loss of some of them brings to us the sudden realization of their true value. We have come to take for granted the liberties we possess today at little or no cost to ourselves. Seldom do we stop to think what it means to be able to speak our minds freely and without fear of punishment by sovereign authority. As we go our several ways to worship God according to the dictates of our own conscience, the peaceful atmosphere that permeates our religious activities is too often dismissed with a casual thought.

Religious freedom, as we know it today, is one of the most recent developments in modern civilization. It is the result of centuries of struggle. Little does the sunshine, pouring forth light and beauty and contentment on a glorious Sabbath morning, betray the persecutions, the conflicts, and the bloodshed of earlier days when religious freedom was unknown and religious tolerance was scarcely recognized as an ideal.

The inevitable separation of the church and the state was foreseen by Dante, the great visionary of the Dark Ages, long before the national state was established as the sovereign institution in human society. He perceived in dim outlines the momentous function such a separation was to serve in historical progress, and he saw the latent power which lay in the numerous temporal governmental organizations of that day. He felt it was necessary to reconcile the two general types of institutions which he foresaw would compete for the control of man's behavior. It is not that one shall engulf the other, he said, but both the church and the state shall in the course of events be assigned their proper places in the order of things.

Justifying the independent existence of these two guardians of man's fate, Dante said in his famous work, "De Monarchia:"



W. H. MOORE
Hon. Jennings Randolph

"Man may be considered with regard to either of his essential parts, body or soul. If considered in regard to the body alone, he is perishable; if in regard to the soul alone, he is imperishable. . . . And inasmuch as every man is ordained for a certain ultimate end, it follows that there exists for man a twofold end. . . . One end is for that in him which is perishable, the other for that which is imperishable. . . . Wherefore a twofold directive agent was necessary to man, in accordance with the twofold end: the Supreme Pontiff to lead the human race to life eternal by means of revelation, and the emperor to guide it to temporal felicity by means of philosophic instruction."

Dante's intellectual horizon was, of course, circumscribed by the conditions of his time. In his mind the temporal power was the

monarch; the celestial representative was the pope. It was beyond the imagination of the man who visualized the inferno, to realize that a vast territory would stretch across an entire continent with more than 126 million inhabitants in which the social order would be disciplined according to the principles of democracy. That men would, in years to come, be masters of their own respective souls was a thought too fantastic to occupy the medieval scribe even in the apogee of his creative genius.

In Dante's time, men could fabricate stories about strange creatures who were half man and half beast; they could broadcast the most amazing tales concerning the space beyond the little known world. But even in their most fanciful moments they could not approach a story that hinted at the reformation of Christianity or the social organization of democracy. These were fictions too complicated for the human mind of that day. Only the reality of history could develop them.

A Fundamental Problem

But if Dante failed, due to the circumstances of his time, to visualize a democratic state or a Protestant church, he, nevertheless, expressed a fundamental

problem which persists to this day,—the problem of separating the powers of the church and the state. Whether the church be Protestant, Roman Catholic, Mohammedan, or Greek Orthodox; whether the state be monarchical, democratic, fascist, or communistic, the task of holding the church and the state in their proper spheres remains the same.

We may not agree with all that Dante and his contemporaries believed, yet we all know there is something within man which delivers him from the imprisonment of his five senses. It is impossible to define this emotion which has always dwelt in man. Some are pleased to call it the religious instinct. After all, it matters not in the least what kind of label we attach to it. We know it is indispensable to man, and it is the meat and drink of his nobler self.

Nevertheless, it is one of the incidents of history that this feeling of other-worldliness was once regimented by an articulate dogma which was forcefully inculcated in all men of the Western World. For centuries Christians lived under the dominance of the universal church, and the pope jealously guarded his political prerogative as Christ's emissary on earth. The mighty conqueror, Charlemagne, bowed humbly before the pope as his vassal. Proud Henry II was obliged to acknowledge the pope as his superior.

But the kings and their noblemen were gradually encroaching upon the temporal powers of the church. When the Lutheran revolt sought to return religion to the dictates of the individual conscience, the princes put their full support behind Luther to undermine the authority of the church.

Protestantism cleared the way for the national sovereign state. But it by no means settled the struggle for power between the church and the state, and like Dante, neither could it distinguish between man's body and man's soul. As an inheritance from the Dark Ages, church and state remained inseparable. The sad consequences were decades of religious warfare in which the population of Germany was decimated. Europe still bears the scars of those battles between the Protestant and Catholic princes.

Church and State Hopelessly Locked Together

As the result of a war in which neither could exterminate the other, it was agreed that each prince should have the right to adopt the religion he chose for his subjects. Thus one state, one religion. The church and state were more hopelessly locked together than ever before. In place of the universal church which commandeered man's daily spiritual and corporal activities, there was now the absolute monarch, who not only ruled his subjects in their material affairs, but determined, as well, how they were to worship their Creator.

It is a mistake to assume, therefore, that the Protestant Reformation guaranteed the individual freedom of conscience. Luther, to be sure, had declared that salvation was a personal matter. But the princes who had usurped the power of the medieval church were not in the least troubled over the spiritual comfort of their subjects. What did the common man know about God? Was not the king enthroned by divine right? Was he not, as successor to the pope, the celestial as well as the temporal guardian of his people?

Even in England, where the idea of civil liberties was first beginning to dawn upon a rising merchant class, religion was considered a political affair. Henry VIII had founded his own state church to obtain a divorce, but his marital vagaries did not alone constitute the religious revolution in England. It went much deeper, into the very hearts of the people themselves. The king, however, determined to divert this religious movement through the establishment of the Anglican Church. All other Protestant sects were outlawed. The Jew was despised. The Catholic was suspected of ceaselessly plotting the overthrow of the state.

Even the English Puritans who fled to the New World to worship God as they pleased, were by no means committed to the principle of the separation of church and state. They were as zealous to root out "heresy" in their wilderness communities as were the Anglicans, Lutherans, and Catholics. The vote was ordained for only those who had received God's grace. The leaders in the church were also the leaders in the town meetings.

Each little settlement in America became a cluster of religious bigots, who bullied and often put to death those who could not conform to their beliefs. Religious freedom was not considered a social necessity. In Maryland the Catholics had announced the principle of religious tolerance. But tolerance is a long way from freedom. The master tolerates his slave, but such an attitude makes the bondsman no more free. In the same way the presence of the numerous nonconformist sects was tolerated in Maryland, but they were not given political or social equity.

Severance of Church and State

Roger Williams was the first man of importance to realize that an absolute severance of church and state was necessary for the well-being of the individual conscience. No man was discriminated against politically in his colony because he was an atheist, a Catholic, or a Jew. But Roger Williams's practice was as anomalous as an iceberg in the Gulf of Mexico. On all sides of him a man's religion was considered the business of his neighbors and the local government.

But Roger Williams's lonely idea proved to be the regeneration of man in the New World. The farther removed the colonies were from the inherited hatreds and jealousies of Europe, the more natural was it for them to practice the brotherly love preached by Jesus of Nazareth centuries ago.

As the Calvinists, the Mennonites, the Baptists, the Lutherans, the Quakers, the Methodists, the Huguenots, the agnostics, and the atheists turned away from the serene life of the seaboard to penetrate the forests, fight the Indians, and build new communities, they discovered they had need of one another.

When the Red Coats were commissioned to America to make short work of the rebellion, they were welcomed into the luxurious homes of many Tory friends. But when they marched westward into the wilderness, they were met with uncompromising hostility. In the West, where freedom burned most intensely in the breasts of men, the British officers knew that they were whipped. The rustic militiamen, representing all religious beliefs, were quick to assemble and drive the usurper of their liberties from the land.

The common triumph of the War of Independence had taught the colonists what they might accomplish by cooperation. Men of all creeds, of all the colonies, and of all economic and social classes had joined in the fight for independence. All would demand benefits for their sacrifices, which meant, above all, no special privileges to any religious creed.

Thus, when the Federal Union was established in 1789, the complete separation of church and state was incorporated as one of its fundamental principles. There were to be no religious qualifications for a

man's citizenry, and this principle was further strengthened by the Fourteenth Amendment to the Constitution. It is thus one of the stated propositions of our democracy that so long as a man observes the law, his religion shall in no way prohibit him from the vote or from holding public office.

It would seem that Dante's advised separation of the church and the state has at last come to pass, and that we can now dismiss the problem from our minds as being settled. Such an attitude would be fatal. The United States is not a state similar to the territories governed by the medieval princes. It is a complex commonwealth, with divided and delegated powers.

Thus, when we speak of the separation of church and state in the United States, we do not mean simply the absence of a church supported by Federal taxes, nor do we mean simply the rights of all men, regardless of religious credo, to the privileges of citizenship. If religious freedom is to be triumphant in our Republic, its spirit must live within the constitutions of all the component States. The judge of every local court must be imbued with it. And above all, no one of us can afford to lose sight of it as being one of the pillars upon which our Republic is founded. Our belief in the freedom of conscience is the very material of that structure.

The long train of sorrows that have marked human history will not end until men the world over accept the principle of religious freedom. The United States has no divine dispensation from the tragedies that have visited Europe. Unless we stand eternal vigil over our liberties, they will, in subtle ways, slip away from us. The strategic point to guard is always our freedom of conscience.

High upon the Department of Justice building in Washington are inscribed these words: "*Justice in the life and conduct of the state is possible only as first it resides in the hearts and souls of its citizens.*" This inscription, imperishable as the stone upon which it is carved, reminds all Americans that freedom of conscience is the prerequisite to the abode of justice among us all.



T. M. FRENCH, PHOTO

Upon This Spot, Lexington Green, Massachusetts, the First Blood Was Shed in the War of Independence, April 19, 1775

Let Americans Stand on Guard

by CLAREMONT LOVINGTON



FROM THE DICTATORS of other nations we hear democracy, the rule of the people, publicly ridiculed, human rights shamelessly scorned, and civil and religious liberty scathingly denounced and ruthlessly denied. This highhanded personal rule of men who are no longer subject to the will of the people, is not only casting a depressing shadow upon the world, but is robbing the people of their initiative of sovereignty by virtually reducing them to the level of serfs.

Autocracy and democracy cannot dwell together in the same domain. The people cannot serve two masters with opposite ideals, any more than a man can ride two horses going in opposite directions at the same time. Tyranny may have its heyday of triumph over the people when they are helpless in distress and prostrated with crushing burdens; but just as surely as day follows night, the people will endure oppression for a given period, and if relief is not forthcoming, they are destined to break all restraints of their oppressors and assume their own sovereignty.

The happiest, the most peaceful and prosperous lands in the world today are those in which democracy holds sway. As long as democracy protects the vital interests of the people and safeguards and preserves the fundamental, inalienable rights of all men equally under constitutional government, just so long liberty and democracy will survive and supplant all tyrannies. Communism and totalitarian governments cannot thrive where equal justice and human rights are recognized and realized in the administration of government. The people must be made safe for democracy if democracy is to be made safe in the world. No brand of servitude under any form of government is safe in the world.

The only way to rescue any government from chaos and ruin is to protect the people in the enjoyment of their God-given natural and inalienable rights; not to allow any citizen to have a just cause of grievance against the government, but to entrench and fortify his civil and religious prerogatives so strongly in constitutional guaranties that no law-making body or administrator of law can penetrate them. The protection of the rights of all is no stronger or safer than the protection of the rights of each individual. Special privilege is a cancer that gnaws out the vitals of a nation. No nation can

endure being part slave and part free. A purely democratic republic can cure its own ills best by resorting to democratic constitutional remedies.

The concentration of power and wealth in the hands of a few is the result of maladministration of government and misinterpretation of essential justice. Whenever the ruling power of a democracy thinks more of its own prerogatives than it does of the rights and prerogatives of the people, and of the fundamental principles and ideals of a true democracy, the inevitable result will be an apostasy from constitutional government, followed by unprecedented human misery. The people will be compelled to contend for their very existence.

Such a course produces a fertile soil for the propagation of the seeds of communism, which means the destruction of all individual initiative and liberty. If the wheels of justice did not grind so slowly and so uncertainly, our heritage of human rights and liberties would be more stable and secure.

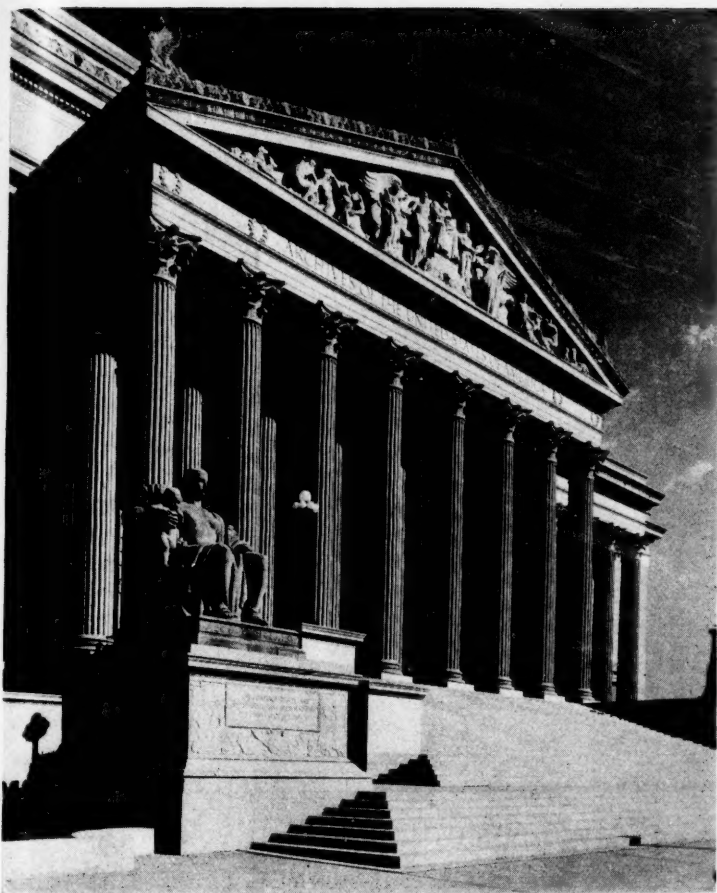
Need of an Intelligent Citizenry

What the world needs today is an intelligent and virile citizenry thoroughly instructed in the fundamental principles of democracy and constitutional government. So long as the great mass of the people are satisfied with government doles to eke out a miserable existence, they can rise no higher than the level of serfs.

A government that resorts to regimentation, not only of the people's needs, but of their rights, and removes the incentive to individual initiative and virility, can expect its citizens to reach no higher level than that of morons. When such a governmental policy of regimentation assumes the status of permanency, the hope of political as well as of religious freedom is doomed, and Ichabod will be written over every temple of human freedom.

What we need to fear, as citizens, more than anything else in this world, is an invasion of the rights of the individual, and of the minority groups. The majority are capable of defending their own rights successfully, but the minority must always look to the government for the protection and preservation of its fundamental rights.

The Constitution of the United States was the first legal document of any independent government which



KORYCZAK PHOTO

The Archives Building in Washington, D.C., Is Devoted to the Safekeeping and Preservation of Valuable Government Documents and Records. Engraved Upon One of the Pedestals in Front of the Building Are These Words, "Eternal Vigilance Is the Price of Liberty." More Necessary Than the Preservation of Records, Important as That Is, Should Be the Guarding of American Rights and Liberties So Dearly Won in Years Gone By

recognized and protected the inalienable rights of the individual in both civil and religious matters. The founding fathers of the American Republic placed limitations upon the highest law-making body, protecting the individual with constitutional guaranties, so that he might never be molested in the free exercise of his conscience in religious matters or in the enjoyment of his inalienable rights. This was the greatest boon among all temporal blessings ever bestowed upon mankind.

The Refuge of the People

The Constitution of the United States is the only refuge to which the people can flee for protection when their lawful and natural rights are assailed, and the Supreme Court is the only guardian of that mighty fortress standing in defense of this palladium of the people's liberties. "We, the people," have "established this Constitution" as our supreme oracle in matters of jurisprudence and equity; and any

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enemy, either foreign or domestic, that seeks to move one peg or plank in this platform of the people's political faith without their consent, must be regarded as a foe to the best interests of the people. Liberty, as buttressed by the Constitution, is a jewel that cannot be bought, as are rubies and diamonds, and placed in a robber-proof vault for safekeeping for ages. Its only security is in the hearts of the people; and when the people lose their love and devotion for liberty, even the Constitution cannot save it. This instrument becomes a meaningless parchment, from which the spirit of liberty has taken its flight.

Whenever the people are willing to surrender their sovereignty for material comforts, and prefer to be well-fed slaves under dictators rather than freemen, the ark of the covenant will suffer captivity at the hands of the Philistines, and every man will do whatever seems to be right in his own sight.

History repeats itself, and none seem to learn any lessons from the mistakes of the past. The surrender of a valuable inheritance for a mess of pottage was the lifelong regret of Esau. Let Americans take heed lest they surrender the most precious heritage of civil and religious freedom that was ever bequeathed to posterity.

Let us respect and cherish our Constitution, and the Supreme Court as its guardian, as we do our own liberties and our right to sovereignty as a people. If we weaken our refuge of security, and partisanize the guardians of our fortress of liberty, we jeopardize our safety as well as our liberties.

It is said that one night when General Washington was being betrayed by British sympathizers, and the American Army was in a precarious situation, he gave this famous order: "Let none but full-blooded Americans stand on guard tonight." What America needs more than anything else today is full-blooded, red-blooded Americans, who are imbued and impregnated with American ideals and principles of government, and who will stand on guard at the threshold of American jurisprudence, to protect and safeguard the American heritage of civil and religious liberty. Let none but Americans—true Americans—stand on guard today. "Eternal vigilance is the price of liberty."

Government Paternalism in Medical Practice

by **CHARLES S. LONGACRE**

THERE IS HARDLY any field of endeavor or any human activity that the government is not seeking to control at the present time. The government proposes by specific legislation to set up local, State, and Federal agencies to provide adequate medical care for the public. One proposal reads as follows:

"That an immediate problem is provision of adequate medical care for the medically indigent, the cost to be met from public funds (local and/or State and/or Federal). . . .

"That public funds should be made available to hospitals that render service to the medically indigent and for laboratory and diagnostic and consultative services.

"That in allocation of public funds, existing private institutions should be utilized to the largest possible extent and that they may receive support so long as their service is in consonance with the above principles."

The above principles referred to read as follows:

"1. That the health of the people is a direct concern of the government.

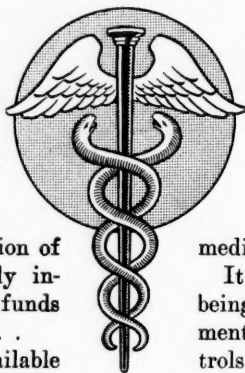
"2. That a national public-health policy directed toward all groups of the population should be formulated.

"3. That the problem of economic need and the problem of providing adequate medical care are not identical and may require different approaches for their solution.

"4. That in the provision of adequate medical care for the population four agencies are concerned: voluntary agencies, local, State, and Federal governments."

The American Medical Association has raised its voice in opposition to governmental subsidy and control of medical practice. As usual the government proposes to use the District of Columbia as an experimental station, and if it works, then try it on the rest of the nation.

The proposal contemplates Federal subsidies for hospitals and medical schools, both public and private. Whatever the government subsidizes, it controls. The grave danger, which many do not now see, is that as soon as these medical schools and hospitals accept these government subsidies, they run the hazard of turning over to the Federal Government the control



and standardization of both public and private medical schools and hospitals. It would put the government directly into the practice of medicine, and through its government bureau it would shape the curriculum and the administration of service of these medical schools, as well as the practice of

medicine throughout the nation.

It is similar to the plan which is at present being carried on in certain dictatorial governments in Europe, where the government controls the number of medical students, and the nature of the medical education they are to receive. American medical schools and hospitals are now facing the same grave danger of putting the government in a dominant position in the field of medical practice, if they accept this proposed government subsidy. Government paternalism and regimentation in medical education and practice would be inevitable.

The most serious of all the proposals is the provision that the government subsidize the private hospitals and medical schools in relationship to their laboratory, diagnostic, and consultative services. Many religious organizations are conducting medical hospitals and schools, and this would mean that the government would make a direct appropriation to these religious institutions, which is contrary to the ideals of the American form of government. It would constitute a financial alliance between the state and the church, more dangerous than even a political alliance.

Another Medical Innovation Sponsored by the Government

Under Federal auspices, unlicensed and unregulated health insurance and the practice of medicine in the District of Columbia, and later wherever else in the world a civil officer or employee of the United States Government may be found, are proposed, by a certificate of incorporation, filed on behalf of "Group Health Association, Inc.," in the office of the Recorder of Deeds of the District of Columbia, February 24, 1937. This certificate makes eligible for membership every employee of every branch of the United States Government other than officers and

enlisted men of the Army and Navy. The Federal Home Loan Bank Board, a fiscal agency of the United States Government, is sponsoring this Group Health Association.

All government officers and employees, together with their families, according to its certificate of incorporation and by its bylaws, are to pay their "dues and assessments, if any," to the Group Health Association, which will entitle them to medical services by physicians and surgeons assigned to them. These government workers who are members of the Group Health Association have no freedom of choice as to their physician or surgeon. The scheme does not require the high-salaried and richer officer or employee to pay any more for his medical services than the poorest employee. It will enable the rich to get the same medical service for the same price as the poorest in government service. As a consequence, the richer and more highly paid and influential employees are to gain the most financially by this scheme. It has long been recognized by the courts that the value of medical services rendered to a patient may be properly appraised in relation to his wealth, the same as legal services rendered may be appraised in relation to the value of interests the lawyer is called upon to protect.

The bylaws of the Group Health Association offer each member the option of paying his dues personally or of assigning to the association as much of his government salary as may be necessary for that purpose, and requesting the United States Government to deduct semimonthly the amount assigned and remit

to the Group Health Association. An employee with dependents pays \$39.60 per annum, in equal monthly payments. Those having no declared dependents pay \$26.40 a year, payable monthly.

A physician of the most inferior quality may be assigned, and the employee must accept the same. If he is dissatisfied and engages an outside physician, he does it at his own expense. The natural consequence of such a scheme would be a very inferior grade of medical practice, with no incentive to satisfy the patient or to compete with higher quality of medical service. The government employee would have to accept the quality of medical service proffered him by the Group Health Association or run the chance of being out of favor with the government.

This is another aspect of governmental paternalism and economic regimentation. It virtually places the government employees in the same category as minors and serfs. More and more the government is entering into competition with private enterprises and business. All this is being done in the name of humanity and for the sake of the public welfare. But the American people cannot afford to surrender their own initiative, their right of sovereignty, and their liberties, for mere material comforts furnished by the government. The most costly sacrifice and the most dangerous adventure any people can make is an experiment upon their liberties and a surrender of fundamental principles in government.

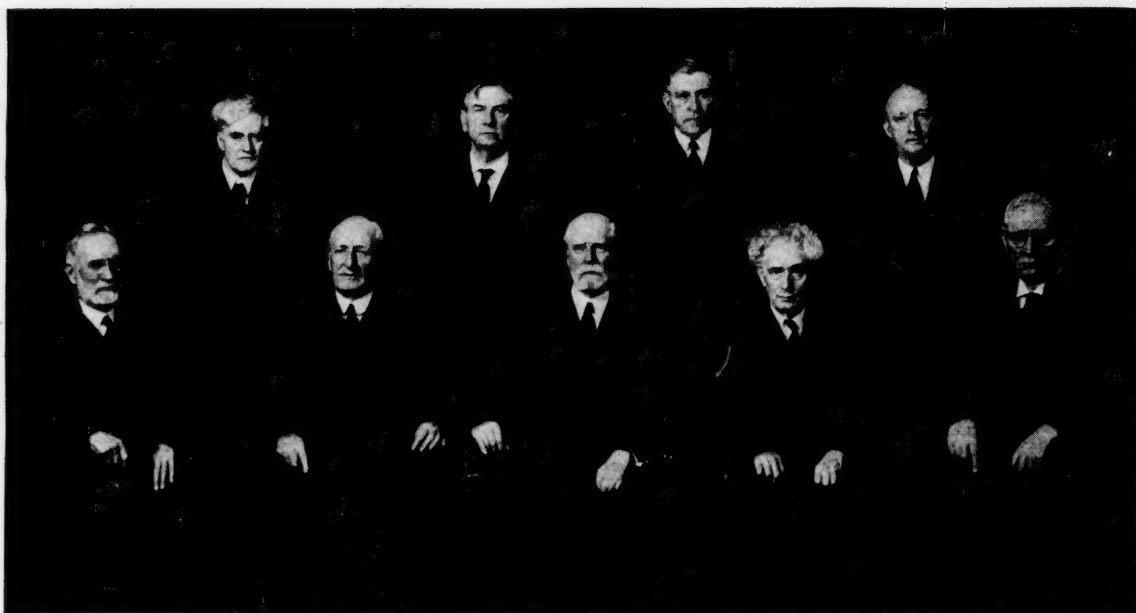
We are therefore opposed to the above proposals for the following reasons:

1. Government subsidies mean government control of everything it subsidizes.
2. Government subsidy to private institutions means the appropriation of public funds—the tax money of the people—for the support of religious institutions, which is unconstitutional and contrary to the principle of the separation of church and state.
3. It means government paternalism.
4. It means the government's entering into competition with private medical practice.
5. It means the surrender of the sovereignty and independence of the people to government regimentation.
6. And, lastly, it means the gradual reduction of the rights of citizens to the status of serfs and minors, thus rendering the government less subject and responsive to the sovereignty of the people.



J. C. ALLEN

It Should Be the Privilege of Every One to Select His Own Medical Service According to His Wishes and Preferences



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The Latest Photo Taken of the United States Supreme Court. First Row, Left to Right: Associate Justices Sutherland and McReynolds, Chief Justice Hughes, Associate Justices Brandeis and Butler. Second Row, Left to Right: Associate Justices Cardozo, Stone, Roberts, and Black.

An Appeal to Clergymen to Defend Religious Freedom

by **GEORGE WASHINGTON ROBNETT**

Executive Secretary, The Church League of America

THE CHURCHES of this country are today facing what may prove to be the gravest danger that has threatened them since this nation was founded. The forces that have destroyed the liberties of the peoples of Europe are casting their shadows over our own doorways. Call those shadows any name you wish, they are all totalitarian in purpose, they are all means to the same end, and they are all achieved in the same way, namely, through *extreme centralization of government*.

When this centralization has been accomplished, the churches soon feel the touch of the "mailed fist." Why?—Because through control of the churches the rulers are able to manufacture unholy prestige and exert a wider influence over the people. Dictators seek first to control the churches, then to change or destroy them. Under our system of government, religion has prospered as it has in no other part of the world.

"Collectivism" substitutes the sovereignty of the state for the sovereignty of the people. Personal

rights and liberties are rejected. Personal initiative is curbed. The individual means nothing, the state everything.

Our democracy has always been the exact opposite of this. Our founding fathers believed that man was endowed by his Creator, not by a political entity. We regard man as "a free moral personality, the creature of God, and the maker of his own destiny."

A human soul is the most important thing on earth, but collectivism relegates it to the rear, and adores the soulless state. A highly centralized government is the natural enemy of freedom, in speech, in religion, in education.

Extreme centralization of government can be accomplished in this country only if we allow the destruction of our traditional constitutional system, with its three distinct and independent branches of government. Concerning that system, Woodrow Wilson said: "With a fine insight into real character of the government which they [the founding fathers] were constructing, the Convention provided that its

judiciary should be placed, not under the President or the Houses, but alongside of them, upon the footing of perfect equality with them."

An independent Supreme Court is vital to our form of democracy. An independent judiciary is the one best guardian of minorities, religious and others, because it is less affected by political expediencies and mob hysteria than is either of the other branches of government.

All governments are essentially political in nature. They are sustained by patronage and spending, and from these seeds sprouts "Tammanyism." The greater the bureaucracy of government, the greater the spread for patronage and its spoils.

Over our own government we have watched the spread of a vast bureaucracy. We have seen the appetite for political power grow greater and greater. We have noted a constant effort to enmesh the people in the web of government control.

Regardless of how much we trust our immediate leaders, we must always bear in mind the stuff out of which politics is made, and remember that no individual can separate himself from the political entourage of which he is a part. Better than a government of men is our system of a government of laws under a limited Constitution.

It is time for churchmen to awaken and concern themselves with the groundwork of church freedom. It is time to sermonize the distinctive and glorious qualities of our own great democracy,—a workable system of liberalism that has made this country the haven of the oppressed, the envy of the world, a land of leadership and prosperity.

Ours is a liberal government, because it is not highly centralized, because its powers are guarded by division. There are those who call themselves liberals who today are striving for the most unliberal thing in the world,—a controlled judiciary. Surely we need not become destructive in our hysteria for quick change. God and nature proceed slowly and orderly.

It has been an independent Supreme Court (not the executive or legislative branches) that has guarded the rights of religion, of the common man, and of minorities when they were threatened.

Our freedom is not something positive or permanent simply because during our lifetime it has always

been so. The truth is, only a thin line of guardianship encircles our liberties and distinguishes our government. But that line (our Constitution) has accomplished what no other nation in the world has achieved,—the complete separation of church and state.

Supreme Court Justice McReynolds in one decision stated: "The child is not the creature of the state." In other words, our Constitution recognizes man as a child of God, not the pawn of potentate nor the football of political majorities. The state and its officers are the servants, not the masters, of the people. If America is to preserve its democracy, it must preserve the sovereignty of the individual. No way has been found to do this other than our own system of "checks and balances"—strict independence of the three distinct branches of government.

Thomas Jefferson, author of the statute of religious freedom, cautioned: "Confidence is everywhere the parent of despotism. Free government is founded on jealousy, not in confidence. It is jealousy and not confidence which prescribes *limited* constitutions to bind down those whom we are obliged to trust with power. . . . When all government, in little as in great things, shall be drawn to Washington as the center of all power, . . . it will become as venal and oppressive as the government from which we separated."

Our danger today is not from some immediate tyrant, but from our own good-intentioned drift toward that confidence against which Jefferson warned. Our danger today is not from the judiciary, which cannot pass laws or issue executive decrees, but from the other departments' spread of bureaucracy with its vicious "Tammanyism" and wanton waste. Our danger today is not from constitutional reactionaryism, but from the highly touted liberal reactionaryism that would drive us back to medieval bondage.

Churchmen, be on your guard! Is it not your duty to help awaken the people to lurking dangers, to intensify their love of liberty and reverence for our Constitution, with its checks and balances, and to help discourage the irreligious ethics of kindling personal fires with class hatreds?

Vigilance is forever the price of freedom; an independent judiciary is our key to religious liberty.



The History of Sunday Legislation

Part One—From the Days of the Roman Empire to the Founding of Plymouth Colony

THE ROMAN EMPIRE established religion by entering into a contract with the gods through its official representatives. Worship, therefore, consisted of ceremonies, prayers, sacrifices, and games, through which the people fulfilled their part of this contract. The state maintained colleges of sacred lore, which determined all matters connected with religion. The most important of these was the College of Pontifices. The emperor stood at the head of this as *Pontifex Maximus*, and had full power to decide "what days were suitable for the transaction of business, public or private, and what were not."

The Oriental sun-worship cultus, Mithraism, was widely prevalent and extremely popular in the Roman Empire about the beginning of the Christian Era. It was for a long time a dangerous and well-nigh successful competitor for the controlling religious influence throughout the empire. The evidences of this worship are still associated with the ruins of all the principal military stations that sprang up in the course of the Roman conquest of Europe.

The division of days into judicial and nonjudicial was an established custom under the original pagan cultus of the empire. This custom was enlarged and intensified by the influence of Mithraism, in which

the sun's day occupied a prominent place. Even before the age of Augustus, the number of days on which no trials could take place at Rome, because of reverence to the gods to whom these days were consecrated, had become a means by which wealthy criminals evaded justice; and Suetonius sets it down as a praiseworthy act on the part of Augustus that he rejected thirty days from that number in order that business might not be impeded and crime might not go unpunished. The ferial system also included the forbidding of various kinds of labor on the days consecrated by religious observances. This system and these practices antedate Christianity.

Constantine's Sunday Law

Constantine, like his predecessors, was a devotee of the sun god, and he favored all influences and used all measures to establish himself as supreme ruler. While he was thus struggling for the supremacy, Sunday legislation first appeared in 321 A.D. The pagan character of this first legislation is shown by the law and its associations. There is nothing in contemporaneous history to indicate that such legislation was desired or sought by the people of the empire or by any class thereof. On the contrary, everything shows that these edicts sprang from the will of the emperor alone. In 386 A.D. legislation was renewed, forbidding shows and litigation on Sunday, and . . . the term "Lord's day" was used as the counterpart of Sunday.

In the Middle Ages almost all questions of religious duty and ecclesiastical organization were subject to civil control. The ecclesiastico-civil authority claimed the prerogative of legislating on religious questions, after the manner of the Jewish theocracy. Hence there are several points of analogy between the Sunday legislation of the Middle Ages and the Sabbath legislation of the Mosaic period. Legislation fixed sacred time from noon on Saturday until sunrise on Monday; and during the latter part of the Middle Age period those who dared to disobey such require-



There Is Nothing in Contemporaneous History to Indicate That Constantine's Sunday Law Was Sought or Desired by the People Themselves. On the Contrary, Everything Shows That This Edict Sprang From the Will of the Emperor Alone



The Procession Through the Streets of London, England, at the Time of the Coronation of Edward VI in 1547. Under This King Many Strict Prohibitions and Regulations Were Enacted Concerning Religious Worship on Sunday

ments were coerced by additional commands, which, it was claimed, were furnished by direct interposition of Heaven.

The Saxon legislation was much like the Middle Age legislation of Southern Europe. It began as early as 688 A.D. under Ina, King of Wessex. It divided the punishment for working on Sunday between the slave, the master who required work of him, and the freeman who worked from his own choice. The sacred time sometimes began with sunset on Saturday and ended with sunset on Sunday, known as "Monday eve." In some instances, as under Edgar, 959-975 A.D., it extended from noon on Saturday until daylight on Monday.

The English Sunday Laws

The English Sunday laws were a continuation and expansion of the Saxon laws, and, like them, were the product of the original Roman legislation. In 1281, under Edward I, an attempt was made to eliminate the Jewish theocratic idea. The showing of wool in the market was forbidden under Edward III in 1354. Islip, Archbishop of Canterbury, in 1359 enlarged the prohibitions and requirements with reference to Sunday and other church-appointed days. Marketing, and fairs for the sale of goods, which seem to have been held in and about church buildings and cemeteries, were forbidden on Sunday and other

festivals, under Thorsby, Archbishop of York, in 1357 A.D.; while "unlawful games on Sundays and other festivals" were prohibited under Henry IV in 1409 A.D. Fairs and markets, which evidently increased rather than diminished, were especially inveighed against under Henry VI in 1448. The sale of goods by "cobblers and cordwainers in the city of London," excepting in certain localities, was forbidden "on Sunday and other festivals," in 1464.

In 1547, under Edward VI, more stringent regulations concerning religious worship on Sunday were introduced. In 1552 he issued "an act for the keeping holy days and fast days," which included a large number of days and made many strict prohibitions. The "Injunctions of Elizabeth" created a stricter legislation, and made special provision for the appointment of "discreet men to see that all the parishioners duly resort to their churches upon Sundays and all holy days," and to punish neglect thereof. The spread of the Puritanic element in England, which urged this stricter legislation, was opposed by the "Book of Sports," first published by James I in 1618, and republished by Charles I in 1633. This declaration set aside much of the stricter legislation that preceded it, and favored the ruder and irreligious habits of the masses.

The Sunday legislation in England that was peculiarly Puritanic, dates from 1640 to 1660. The

Sunday laws passed during the Puritan supremacy, were at once civil enactments and theological treatises. In strictness of requirement, extent of application, special features, regulations, and provisions, these laws are in strong contrast with nearly all that preceded them. They form a curious and interesting epoch in the history of Sunday legislation. They are prefaced by the complaint that Sunday was little regarded as a sacred day, and was wickedly desecrated by business and recreation. They forbade all secular business, traveling, and recreation, in careful detail. They specified minutely in all particulars, and instituted a rigid system of police supervision and of punishment. The dates of the long and prominent laws under Cromwell are 1644, 1650, and 1656. In connection with these laws, and in the more stringent laws enacted before and after the Cromwellian supremacy, excise regulations concerning drinking shops were prominent.

Sunday legislation in Scotland appeared under James I in 1424, the main feature of the first law being a requirement that all men practice themselves in archery in connection with their attendance upon parish churches on "holy days," under penalty of fine. This was in the interest of military service. In 1469, under James III, special legislation forbade moving, collecting of rents, etc., on holy days. Next came the forbidding of fairs and markets, in 1503. From this time Sunday legislation increased in strictness, being in its general characteristics like that of England, and allied to that of the Cromwellian period. This legislation also included "legal fast

days," as early as 1693. Many of these Scotch laws are still in force.

Sunday Legislation in America

The first Sunday law in America was enacted in Virginia previous to 1623. It punished absence from church service on Sunday, without excuse, by the forfeiture of fifty pounds of tobacco.

But the representative and most important type of Sunday legislation during the colonial period, appeared in the New England colonies. The early government of these colonies was theocratic, after the Jewish model; and all Sunday legislation was analogous to, or identical with, the Mosaic legislation concerning the Sabbath (Saturday). This legislation began in the Plymouth Colony as early as 1650, previous to which time the common law of England was regnant in the colonies. All this colonial legislation was emphatically religious. The usual punishments were fine, imprisonment, whipping, caging, and setting in the stocks. This legislation forbade servile work, and even the simplest forms of recreation, not excepting "walking in the streets or fields after sunset on Saturday night, and before sunset on Sunday." It also required attendance on such public worship as was legally established, and forbade all other. Police regulations were rigidly enforced.

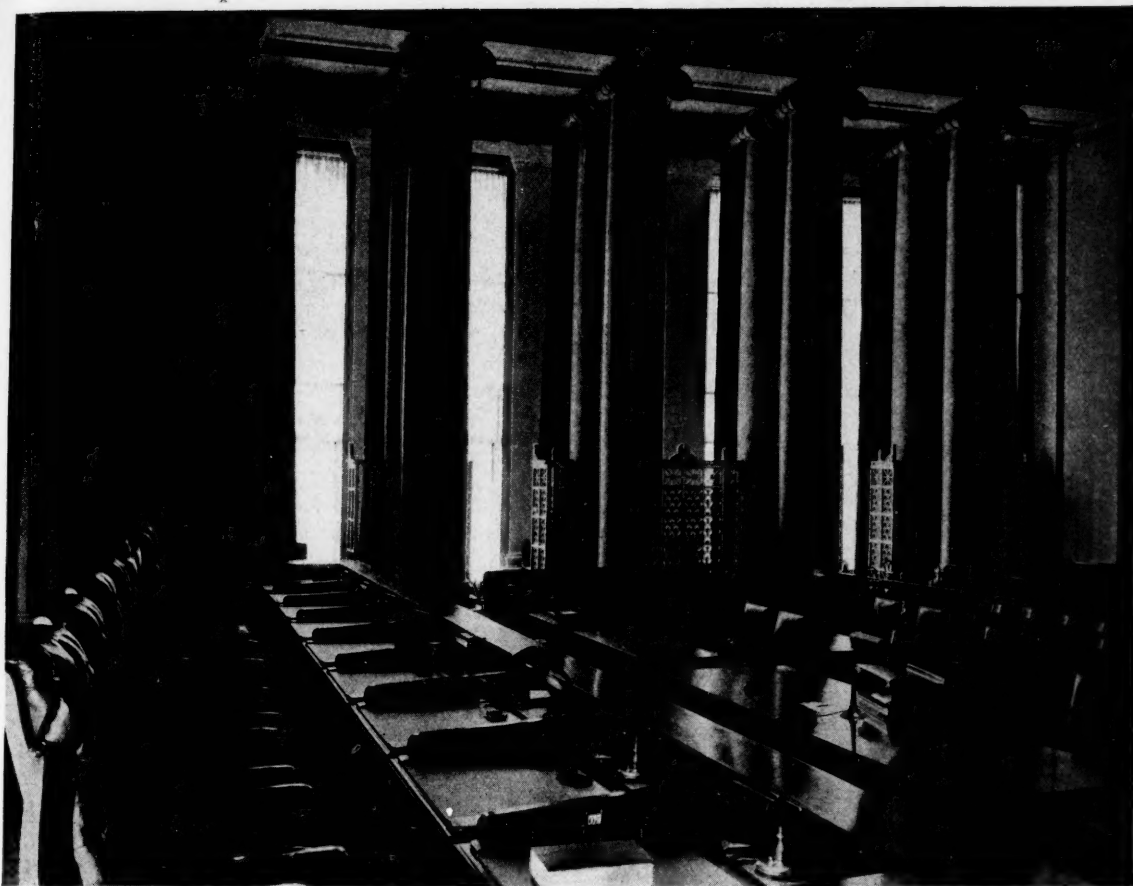
Sunday excise legislation began in the Plymouth Colony as early as 1662. By a law enacted in that year at Plymouth, those having occasion to travel, "in case of danger of death, or such necessitous occasion," were to receive a ticket from one appointed for that purpose, without which the traveler was liable to arrest by any person. Servile work and sports were also forbidden on days of public fasting, prayer, and thanksgiving.

In 1665, in the Plymouth Colony, sleeping in church was forbidden, under penalty of being admonished for the first offense, set in the stocks for the second, and being reported to the court for further punishment if this did not reclaim. In 1669 sleeping and playing outside the building, and near the meetinghouse, were also forbidden, under penalty. A fine of twelvepence was inflicted upon "any person or persons that shall be found smoking of tobacco on the Lord's day, going to or coming from the meetings, within two miles of the meetinghouse."—"Appleton's Annual Encyclopedia and Register of Important Events," New Series, Vol. XIII, pp. 748-752.



LIONEL GREEN

Plymouth Rock, Sheltered by This Monument, Commemorates the Landing Place of Those Dauntless Pioneers Who Braved the Broad Atlantic in Search of a Land Where They Could Obtain Freedom to Worship God as Their Hearts Dictated



HORYDCZAK PHOTO

An Excellent View of the United States Supreme Court Room Showing the Chairs and Desks Used by the Nine Eminent Justices

Liberty—Civil and Religious

by **ELLIS R. DIEHM**

Attorney of the Ohio Bar

[NOTE.—Mr. Diehm has for some fifteen years been a reader and friend of the *LIBERTY* magazine. We are offering some of his observations concerning the principles that underlie the American plan of civil government. Modesty compels us to omit the complimentary things he included concerning this magazine and its aims.]

THROUGHOUT AMERICAN HISTORY, extending over a period of 150 years, there have been few decisions of the high court of the land construing that part of the First Amendment to the Federal Constitution guaranteeing religious liberty to American citizens. The Bill of Rights, consisting of this First Amendment and the succeeding nine amendments, was adopted at the beginning of American history to guarantee to the citizens of the United States certain

inalienable rights, without which this country could not be called "the land of the free and the home of the brave."

The founders of the nation were brave enough to fight for their freedom and were willing and able to oppose successfully the tyrannies of persecution. In order to guarantee definitely that that freedom should continue to exist, there were adopted in addition to and as a part of the Constitution the first ten amendments to the Constitution, as a real assurance of liberty to those who gave so much for it, and to their posterity. Throughout American history no requirement to amend it further has arisen except on eleven occasions, the subject matters of which further amendments did not exist and were not open to discussion

FIRST QUARTER

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at the time of the adoption of the Constitution and the Bill of Rights.

While some controversies have occurred during the years, never before has a situation existed in which American citizens have had called to their attention the inviolate provisions of the Bill of Rights, particularly the First Amendment, so forcefully as during the public discussion over the hearings that were held prior to the consideration by Congress, of the proposal made by the President of the United States, in February, 1937, to increase the number of the Supreme Court judges from nine to fifteen. The recent agitation of this question is serving to remind the nation that the Supreme Court of the United States is in reality "the refuge of the oppressed." Without in any way intending to make a statement for or against the proposal, or of the soundness or unsoundness of any argument made for or against the proposal by either the Senate Judiciary Committee or the many eminent gentlemen who have appeared before it, may I say that the fact that this is a government of reason and not of force has been more clearly established than ever before.

Since it is manifest that there is at least some suggestion that, notwithstanding the quietude of the years, our rights as citizens, and particularly those guaranteed by the First Amendment, are being questioned or are at least not as secure as they have been through the past century and a half, I have taken occasion to examine the very few decisions of the high courts of the land regarding the religious guaranties afforded us by the Constitution. In a recent issue of the *LIBERTY* magazine there appeared the concluding paragraph of the dissenting opinion of Mr. Justice Sutherland of the Supreme Court of the United States in the so-called Associated Press Case, which was concurred in by the other three members who are so-called conservatives. These three sentences contain such powerful language that regardless of whether the majority of the Court, consisting of five members, was correct in its affirmance of the judgment of the United States Circuit Court of Appeals, or whether they were wrong and the minority was correct in the foregoing dissenting opinion, it certainly brings to mind that we should give some consideration to the subject of liberty.

This nation was conceived in liberty, born in liberty, reared in liberty, and will continue to exist only so long as it has liberty and continues to guarantee liberty. What does that mean? It means that both civil and religious liberty are guaranteed to all. It does not mean license. It does not mean that infractions of just civil laws shall not be properly punished. It does mean that every man shall be protected in the exercise of every natural right, everything which does not infringe upon the equal rights of

CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF; OR ABRIDGING THE FREEDOM OF SPEECH OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE, AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.

others. It means that the citizens of this nation, individually and as a body, of whatsoever State they may be a resident or citizen, and of whatsoever color, creed, or race, shall have the inherent and inalienable right to worship God as they choose. God created all things, and regardless of the broad views of this day and regardless of the great movements to disregard God, this nation will neither survive nor continue to exist when the right to worship God is taken away from individual citizens or all of its citizens as a composite body.

Many cases reach the high court involving the freedom of the press and right of free speech, but it is remarkable to know how few involve the liberty of religious worship. However, in conjunction with the great propaganda that is sweeping the country to the effect that we need a revolution rather than a reformation and to the effect that capitalism must be pulled out at the roots in view of the insufficient fruits from its branches as correlated with the controversy between communism and capitalism, much is said against religion, and particularly against Christianity. Never before the recent years, during and following the depression, have these questions so come to the front. It seems that when these doctrines, as well as the doctrines of fascism and dictatorship, and others, are being so openly advocated, based on discontent with the form of government that we have enjoyed, there is danger that all of our fundamental principles will be attacked, including the inalienable right of liberty of religious worship. It is to our credit that so few attacks have heretofore been made. Religious liberty will vanish if there is either a concerted attack by powers which can swing a majority in the attempt to force or compel worship in a certain way or at a certain time, or in an attack by the minority through the trading of votes of those who are willing to sacrifice their liberty in order selfishly to obtain backing of their own propositions in legislative halls. When this liberty is encroached upon, the cause of such encroachment will be selfishness and greed, neither of which fit in with the principles of a Christian life or the principles of any sound religion other than Christianity. Should such liberty vanish, the nation's foundation will be destroyed.

The term "religion" has reference to one's views of his relation to his Creator and to the obligations they impose for reverence for His being and character, and

for obedience to His will. No interference by the civil power can be permitted, provided always the laws of society designed to secure its peace and prosperity and the morals of His people are not interfered with. *Davis vs. Beson*, 133 U.S. 333, 342.

The First Amendment to the Federal Constitution, in declaring that Congress shall make no law respecting the establishment of religion or forbidding the free exercise thereof, was intended to allow every one under the jurisdiction of the United States to entertain such notions respecting his relations to his Maker and the duties they impose as may be approved by his judgment and conscience; to exhibit his sentiments in such form or worship as he may think proper, not injurious to the rights of others; and to prohibit legislation for the support of any religious tenets or the modes of worship of any sect. Religious freedom is guaranteed everywhere throughout the United States and the territories that it controls so far as Congressional interference is concerned. *Reynolds vs. United States*, 98 U.S. 145, 162.

The Federal Constitution makes no provision for protecting the citizens of the respective States in their religious liberties; this is left to the State constitution and laws; nor is there any inhibition imposed on the States by the Constitution of the United States in this respect. This was demonstrated when, after the Louisiana Purchase in 1803, an act of Congress of 1805 extending the ordinance of 1787 to the inhabitants of Orleans Territory, so far as that conferred political rights and secured civil and religious liberties, was passed. It was held that this did not supersede the State constitution of Louisiana, and that an ordinance forbidding funeral services in church raised no Federal question in that State.

Much important litigation occurred in the early history of our country, particularly in the States of Virginia, New Hampshire, and Pennsylvania, attempting to reconcile the constitutions of these States with this First Amendment. In the early days, there could be no contradiction that the American people were a religious people, not only historically but actually. Today we are, however, confronted with the diversity of religious groups and many atheists, infidels, and agnostics, and those who have no religious views and who are neither opposed to nor favorable to

any religion. As the numbers of these increase and as new doctrines opposing religion generally are being formulated and less tolerance is being shown toward those who honestly follow their religious views, the necessity for reasserting our principles becomes doubly important.

In recent years, about the only case that has reached the high court is that of *Meyer vs. State of Nebraska*, 262 U.S. 1042 (67 Law. Ed. 390), wherein the Supreme Court of the United States reversed the decision of the supreme court of Nebraska, setting aside the conviction of the plaintiff in error for having unlawfully taught the subject of reading in the German language in a private school. It was held:

"The liberty guaranteed by the Fourteenth Amendment to the Federal Constitution denotes not merely freedom from bodily restraint, but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by freemen."

May we be ever alert in our duties as citizens and in our advice to legislators in their representation of us and their constituency that, in order to keep our nation free and independent, the liberty of its citizens as guaranteed by the First Amendment to the Constitution should always be subserved, and that no legislation should be passed that will abridge the right of man to serve his Maker in entire freedom. If legislators ever do so far forget the fundamental principles of the Republic's government as to pass laws infringing religious liberty, may we be so divinely blessed and fortunate as to have judges who will not uphold such legislation and thus permit the liberties and rights of men and women to be trampled underfoot.

America has had her Yorktown, her Gettysburg, her temperance prohibition amendment and its repeal, her struggles involving freedom and independence. Her real test is, will she continue to enjoy and preserve the blessings of life, liberty, and the pursuit of happiness by maintaining and upholding the principles on which the nation cradled in liberty was founded? Or will she repudiate them?





The Limitations of Church Functions

by F. DEAN BOGGS

[Mr. Boggs is an attorney in Jacksonville, Florida, and is a member of a prominent Protestant body. One of his denominational journals published an article that Mr. Boggs felt was so closely akin to political matters that it should not have appeared in a religious magazine. Because his protest states again principles that cannot be too frequently stressed, the *LIBERTY* magazine is glad to publish it, omitting such parts as make reference to individuals and to his particular church, since this magazine never attempts to interfere in intradenominational controversies.—EDITOR.]

THE MISSION of the Christian church in the world since Christ commissioned His disciples has been spiritual—to convert men's souls to God, to infuse their hearts with the spirit of love, understanding, and service to their fellow men as exemplified in the life of Christ. This is the fundamental and sole mission of the church. It is of sufficient magnitude to require all of its energies and resources.

From the time of our earliest records of man, and long before Christ came into the world, men were essentially religious, and in their strivings toward the worship of the true and living God, they worshiped many false gods. The priests of these religions, being ambitious men, and exercising great influence over the people, could not refrain from using this influence to gain for themselves political power. They exercised this political power, sometimes for their own private ends, and sometimes for the advancement of their religion. This interlinking of church and state continued over into the Christian church, in spite of Christ's teaching to the contrary and His refusal to become involved in the politics of the Jews in their plans to overthrow the oppressive Roman yoke. He taught man's duty to both church and state in these words: "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's." Matt. 22:21.

The early Christian church, after it became established as the state religion of Rome, exercised such great temporal power for a time that kings were seated or dethroned according to the dictates of the head of the church. Thus the Christian church was

far from being the spiritual body which Christ originated, but on the contrary had become a very worldly tyrannical organization in whose name a great many wrongs were perpetrated. The Christian church had become an object of fear and hatred to many men whom its mission was to save. Reaction set in. Long struggles ensued in which freedom from this form of tyrannical rule was dearly and finally bought, at least by our forebears, and we find our forefathers founding a great nation upon the fundamental principles of complete separation of church and state, and religious freedom.

It must be recognized that there are times when wrongs arise under our political and economic system, so flagrant and of such deep importance in the lives of our people that the temptation is very great for the church to do what it can to right these wrongs by direct action. The church, however, should always keep in mind its mission in the world, and scrupulously avoid the pitfall of being drawn into politics, no matter how great the provocation. For the church to attempt to influence directly the government of this country on political questions, no matter how well intentioned, is an attempt to exercise temporal power contrary to the principles upon which the church and the United States are founded, and it can result only in strife within the church's membership, hatred and distrust without, loss of respect, and failure in its great spiritual mission.

This concept of complete separation of church and state is so fundamentally grounded in the hearts of American citizens that an effort by any religion, sect, or denomination to control the government of this country would be met with the most determined opposition, if necessary. And rightfully so. The past has demonstrated that the success of government and the church depends upon complete separation of the two without interference by either with the functions of the other.

Church leaders, so closely identified with the church that their utterances are likely to be construed by the public as those of the church, should

avoid making public statements on political questions as far as possible. Under no circumstances should politics be brought into the pulpit or into church publications. When a church leader does give voice to an opinion on politics, he should make it clear that he states his personal opinion as a citizen and is not speaking for the church.

Summarizing, the mission of the church in the world is solely spiritual. To accomplish the most good for mankind and to exert its most effective influence, the church must remain spiritual. It must confine itself, in its efforts to improve man's social and economic welfare, to instilling into the hearts of

men the spirit and love of Christ. To forget this purpose and engage in politics means failure in its spiritual mission, and final disaster.

If the church can fulfill its spiritual function, we need not be disturbed about the solution of any political problem. The fact that we have such problems is mute evidence that not every citizen is a Christian, motivated in his political thinking by those great principles of Christianity, "Love thy neighbor as thyself," and, "Do unto others as you would have others to do unto you." The practice of the principles of Christianity would eliminate the fundamental roots of our economic and social ills.

America

The Last Bulwark of Civil and Religious Liberty

by JOHN FRANKLIN BLUNT

CITIZENS of the United States of America, in common with the inhabitants of all the world, possess an inalienable right to civil and religious liberty. This heritage comes to every living soul as the gift of the Almighty God. The free exercise of this gift was not withheld even by the Creator, to whom primarily allegiance is due. Coercion never has been employed by the Omnipotent One, to compel just compliance with the mandate of High Heaven. Obedience results in benefits, and disobedience involves the penalty assigned; but at no time was mankind bound down to servile submission, even to divine command.

How comes it, then, that earthly powers have at any time presumed to exercise supreme power over the consciences of men? Why have any of these equally endowed human beings been constrained to bow to the will of any earthly monarch, in purely personal convictions, so long as overt acts are not committed that would tend to limit or abridge the equal rights of every other member of the human family? Sifted to the bottom, the imposition of any mandate imposing restrictions upon the individual soul in the exercise of the liberty accorded to him by the Creator, is an unwarranted invasion of human right.

Place of Refuge for the Oppressed

Confronted with the arbitrary laws of other lands, America has been the place to which the people have fled for refuge from the penalties of nations whose rulers have sought to deny their inalienable rights and to compel submission to unjust demands. Ambitious governors, from ancient days, have sought to bind the wills of individuals to their own. Absolute

rulers have caused to be slain any who opposed their mandate, and a system of oppression has come to prevail almost throughout the world. Rights that are universal have been held as privileges, to be granted or withheld according to the pleasure of autocratic kings or governments subversive of the heavenly law. Thus human beings have been reduced to vassals of despotic powers, more intent upon the exploitation of the peoples in their realms than upon the common welfare of mankind.

Such conditions were so universal, and so vigorously applied, when America was discovered, that the new-found continents were looked upon as the only way of escape. And here in the United States it was determined such claimants should live, free from governmental domination in matters purely personal in their nature, in both civil and religious affairs. This was made the subject of special guaranty in the fundamental law of the land. It was distinctly stated in the Constitution of these United States that such guaranties were ordained and established in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity. Nor has this Constitution been altered, save as to make even yet more emphatic such guaranties of personal and individual liberty to every individual citizen of these United States.

Contrasted with the subversive enactments and unjust demands of foreign powers, the guaranteed liberty of America stands unrivaled for its adherence to the divine limitations originally ordained. And

the United States of America, despite the assaults upon the fundamental law, stands as a unique example of human dominion, devoted to the self-evident facts of personal freedom, unopposed by any governmental power. Experience made evident the need of supplemental expression of these individual rights in respect to both civil and religious liberty. It had been primarily ordained that no religious test should ever be required as a qualification to any office or public trust under the United States; but this was amplified by the First Amendment, in the declaration that Congress should make no law respecting an established religion, or prohibiting the free exercise thereof. So, too, was Congress prohibited from abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Guaranties of Freedom

Virginia, in her own "Declaration of Rights," adopted June 12, 1776, made forceful reference to religion as "the duty which we owe to our Creator, and the manner of discharging it," and expressly declared that religion can be directed only by reason and conviction, and not by force or violence. In this ringing challenge to bigotry, Virginia said, "It is the mutual duty of all to practice Christian forbearance, love, and charity toward each other." Other States enacted similar definitions in the framing of their religious laws.

Attempts have been made here and there to break down these fundamental guaranties of freedom in religious matters, and enactments have been effected in some States, whereby the prohibitions of the national Constitution have been ignored. But such laws, though standing on the statute books of their respective States, are not founded upon the fundamental laws of the land. The Fourteenth Amendment to the Federal Constitution removes even any flimsy excuse for such laws, for in it all persons born or naturalized in the United States, and subject to

the jurisdiction thereof, are declared to be citizens of the United States and of the State in which they reside, and the express prohibition upon oppressive legislation in civil or religious liberty was imposed in these words: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

Trend Toward Dictatorial Power

By this formal act, proceeding from the people at large, the basis for freedom in America, in both civil and religious matters, the guaranty of protection was extended to all others who might reside in this country, whether citizens of America or not. And there the matter stands.

But how is it abroad? Certain specious theories of government have been formulated, whereby liberty, in either civil or religious matters, has been restricted with a strong hand. In some lands these laws, though formulated by individuals in pursuance of class designs, are imposed as coming from the people at large, and intended for the common good. In other lands, such restrictions are imposed confessedly as the enactment of a superior power, dictatorial in its nature, whereby the masses shall become the victims of an autocratic government, which not only limits and abridges the civil rights of citizens and foreigners residing there, but undertakes to impose religious limitations, and even to make the operation of religious bodies a governmental function, to be operated as a mere department of state!

To neither of these formulas can America give place without the surrender of her own governmental system, and the cowardly abandonment of the Constitutional guaranties, on which this Republic has risen to be the foremost nation of the world. Autocracy abroad has been expanded into despotism. And here in America it is sought by a growing minority to make this country adopt one or the other of these subversive systems of control. The liberty of America is at stake. If this last bulwark of the liberty of the world is thrown down, there will be no barrier to the flood of despotism that is sweeping over the world everywhere else. It is for Americans to say whether the freedom established by our ancestors shall be destroyed or whether, as Americans, we still will maintain the firm foundation on which our heritage was based. But our resistance must be more than a perfunctory act. We must devote our lives and fortunes and all that we hold dear, to the preservation of the God-given liberty that has stood as the admiration of the earth, and that now exists as the sole remainder of the right vouchsafed to all mankind.



Liberty, Both Civil and Religious, Is Secure Only So Long as
Eternal Vigilance Guards It

Usurped Power Grows by Exercise

by HEBER H. VOTAW

IN THAT masterful paper, "A Memorial and Remonstrance," prepared by Madison in protest against a measure which was intended to provide for taxation for the support of the clergy, he used these words as his third reason for protesting against the bill:

"Because it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish, with the same ease, any particular sect of Christians, in exclusion of all other sects? that the same authority which can force a citizen to contribute threepence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?"

Tyranny never arises full grown. It comes from the unchecked growth of small injustices. "Usurped power" strengthens "itself by exercise." Tyrants come to feel that the power they have seized is theirs by divine right, and flatter themselves with the thought that they are generous and magnanimous when they grant any privileges to their subjects. Well does Madison ask, "Who does not see . . . that the same authority which can force a citizen to contribute threepence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?"

Those who are seeking government aid for religious institutions evidently have not considered the question here raised. We have been so long removed from the evils of direct church-and-state union that too many in America fail to appreciate what such a union means. The founders of our country—Washington, Jefferson, Madison, and others—had all personally observed the evils inherent in a union of religion and government, and were naturally suspicious of anything that savored of such a union. They feared even the smallest thing that might be taken as a precedent in favor of the state's giving emoluments to the church.

It would be a splendid thing indeed for our Cath-

olic friends who are demanding—insistently demanding—that the state give of its tax funds for the support of their schools, to remember "that the same authority which can force a citizen to contribute threepence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever." We believe in the right of Catholics to have parochial schools, but we do not want one cent of our money to go to educate Catholic priests. While we say this with emphasis, we can be equally certain that we do not want a single one of our Catholic friends to be taxed even "threepence" for the support of any of our young people who may be in training for the Protestant ministry. We are not opposing state aid for church schools because Catholics are advocating it. We are opposing it because it is wrong, because it is contrary to the fundamental principles of good government, and because it is contrary to the teaching of our Lord and Saviour Jesus Christ, as we understand it.

A Ludicrous Law Puzzling the Courts

THE ABSURDITY of all religio-political laws is revealed whenever an attempt is made by the civil authorities to enforce them. The *Daily Statesman* of Boise, Idaho, in its issue of October 13, carried a news item concerning the decision rendered by District Judge C. F. Koelsch in the case of two men who had kept their places of business open on Sunday in violation of the State law. Judge Koelsch ruled that the law was constitutional, and that he, as a district judge, is bound by it.

Evidently the judge was a bit outraged by the restrictions that he felt had been imposed upon him, because he held that the reasoning of the State supreme court was unsound when it ruled thirty years ago that this law was not an infringement upon the constitution of the commonwealth. The law in question says:

"It shall be unlawful for any person or persons in this State to keep open on Sunday for the purpose of any business, trade, or sale of goods, wares, or merchandise, any building, shop, store, or place of business, whatever; provided that hotels and restaurants may furnish lodging and meals; and provided that this section shall not apply to livery stables, garages, automobile service stations, or stores, insofar as the sale of medicine or sickroom supplies is concerned,

or to undertakers while providing for the dead, or to news stands insofar as the quiet sale and delivery of daily papers and magazines is concerned, nor to the sale of nonintoxicating refreshments, nor to candies, fresh fruits, and cigars, nor to bakeries, insofar as the quiet sale of their products is concerned, or shoe-shining stands, or common carriers insofar as the receipt, transportation, or delivery of express shipments of ice cream, bakery goods, dairy or perishable farm products is concerned."

Judge Koelsch pointed out that under this statute "it is unlawful to sell a loaf of bread from a fixed place of business, while it would be perfectly lawful to sell it by peddling from a wagon." In a further comment, this jurist says:

"In other words the (supreme) court upholds the statute on the ground that a cessation from labor for one day promotes the public health, . . . but in the next breath the court says in effect that if the businessman who maintains a fixed place of business is injured by the competition of the peddler, let the businessman turn peddler on Sunday. What then becomes of the objective of the statute—one day's cessation of labor out of seven?"

We commend this judge for his keen perception of the inconsistencies of the law, and we cannot help saying that we feel sorry for the good people of Idaho that they are bound by such a relic of bygone days on their civil statute books.

In its leading editorial of October 17, the *Statesman* points some well-merited ridicule at the law and some rather sharp sarcasm at its makers. We quote:

"It is, under the Idaho law, a crime to sell bread, butter, meat, vegetables, eggs, or other food products on Sunday at a regular store; but you can sell beer, cigars, face lotions, talcum powder, candy, magazines, ice cream, soft drinks, writing paper, hot-water bottles, toothbrushes, or shaving cream on Sunday without violating any law. You can operate a theater, but pool tables must remain covered and idle on that day. Or you can peddle any foodstuffs from door to door, but you can't sell them in a regular place of business.

"All these regulations and exceptions do not make sense. As Judge Koelsch pointed out, the only excuse for the law is to be found in the police powers of the State, for assuredly no moral or religious issue can be involved where virtually everybody except the grocer can sell anything he wants. In other words, such a law must have behind it the driving force of some protection to the health, morals, or general welfare of the community.

"Now obviously, permitting the sale of beer and banning the sale of bread cannot, under the wildest stretch of the imagination, be termed a law aimed to protect the health, morals, or the general welfare.

"If the supreme court does not take cognizance of this wild-eyed figment of somebody's imagination, then it seems up to the legislature to revise the Sunday-closing law so that it approximates, even if only faintly, the logic of the situation.

"It is difficult to see how a legislature could have arrived at any such a ludicrous law, without deliberately sitting down and trying to make itself ridiculous."

H. H. V.

Catholic Schools Obtain State Funds

THE NEW YORK *Herald-Tribune* of April 25, 1937, published the following news item, showing how the Catholic schools are making innovations and diverting public-school funds:

"About 340 Catholic public schools, conducted jointly by parochial and public authorities, are in operation throughout the country, it was disclosed in a survey made public yesterday by the Institute of Catholic Educational Research of Fordham University. The compromise arrangement between state and church educators was reported satisfactory to both in 97 per cent of the cases studied. . . .

"Public funds were used to pay the teaching staff in each case, and 500 of the 632 employed were members of religious orders. The Catholic authorities were permitted to nominate teachers, but final approval rested with the public-school board. Salaries averaged \$623 a year, ranging from \$250 to \$1350.

"Seventeen States Studied

"The Catholic public schools were substituted for other local educational institutions in most cases, and children of other denominations were enrolled. The class day began with attendance at mass or the recitation of a common prayer in all but 3 per cent of the schools. Many of the schools have been working on the arrangement since before 1900, while one has been run by combined civil and religious administration since 1834, Dr. Cronin said. . . .

"Statutory regulations in most cases made it necessary to postpone religious instruction until after the regular school hours. The arrangement required about 70 per cent increase in local and State school-board supervision over the choice of textbooks and curriculum, and it was this phase of the agreement with which some Catholic school officials were at odds. . . .

"More than 18,000 pupils were enrolled in the 140 schools included in the survey, less than three per cent of them non-Catholics."

This news item is a startling revelation, which shows how stealthily and adroitly the Catholic Church is worming its way into the State treasuries and bringing about a financial union between the church and the state. One of the cardinal beliefs of the Catholic Church is that the state should support the church financially and that the Catholic Church is dominant over the state. Wherever the State constitutions and laws are not explicit as to the use of

State funds, the Catholic Church has taken advantage, as the above survey in seventeen States shows, and has made a raid upon the State funds for the support of its own religious educational institutions. Wherever the Catholics hold the preponderance of power because of numerical strength, they elect the school boards and manipulate the tax funds in favor of the support of their own peculiar schools.

The following editorial from the Scottish Rite News-Bureau of February 8, 1937, very clearly points out devious new ways that are resorted to to divert public-school funds:

"Schemes to get school funds of the various States not only continue, but multiply. The seemingly innocuous school-bus bills, permitting the transportation of children to private as well as to public schools at public expense, have become an entering wedge to these funds.

"The furnishing of free textbooks at the cost of the State or school district is now sought for those who attend all schools.

"Students in many religious or sectarian schools have also been incited to seek grants of aid from the National Youth Administration and other relief funds, and to turn the money over to these schools.

"In some localities, nuns have been installed as teachers who wear their religious garb during school hours, and who turn their public-school pay checks over to their religious orders. Non-Catholic families of these public-school districts have no choice but to subject their children to the sectarian influence of these teachers, who have subordinated every other consideration to devote their lives to the advancement of their own particular faith. In some cases the public schools have in effect become parochial schools (or vice versa), and the rent of the parochial-school buildings and the salary paid the nuns as teachers, of course, go into the coffers of the church. There is hardly a State which is free from some sort of an attack on the public-school system made in an effort to weaken it and to divert school funds into other channels.

"And now the way is being cleared for a new and more extended raid on the public treasury for the benefit of private and sectarian schools. The approval of Congress is sought for the Harrison-Fletcher Bill, providing for continuing and increasing appropriation of Federal funds to be allotted to the States on a per capita basis, and used in such way as the State legislature may determine to 'provide a program of education.' The greatest care has been taken in wording the bill to leave the States free from restriction in the use of these funds.

"Without question, public-school systems have been hampered in many of the States by lack of available funds. A good case may be made for Federal financial support of the rural and grade schools in those States which have been hardest hit by depression and drouth. Every child should have a chance for an education, and there must be sympathetic consideration for States and localities where the tax income has dried up because property owners had no revenue from which to pay taxes. But if Congress is to make appropriations for such a purpose, the funds should be definitely and positively limited to the use of tax-supported public schools, and every child thus given an opportunity for an education.

"One of the foundation stones in the American governmental structure is the complete separation of church and state. Any infringement on this principle should be

strenuously resisted by every true American. Another and most important American institution is our system of free public schools. Anything which weakens and detracts from them is inimical to our whole system of government. Any division of or diversion from the public-school fund for the support of private or sectarian institutions should not and cannot be tolerated.

"It is argued by some that while the Harrison-Fletcher Bill does not prevent such diversion by the States, it would be prohibited by provisions contained in the constitutions of the various States. In this connection a survey recently made by Fordham University, a Jesuit institution, may be cited. It contains a digest of the constitutional provisions which prohibit or limit financial support by the State of private or sectarian schools. Its conclusions would seem to warrant the opinion that in more than half the States, funds received under the proposed bill could legally be diverted to private or sectarian schools, and that in many of the others the constitutional restrictions might easily be circumvented by subterfuge. In many States where the *State-school fund* is protected, and *State funds* are forbidden to be diverted to private or sectarian purposes, nothing is said about *Federal funds*. It is certain that the passage and approval of such a measure as the Harrison-Fletcher Bill would be the signal for a mad scramble for a share in many of the State legislatures. It would seem likely that the poorly represented country districts and small towns where the educational need is greatest would have slim picking indeed after these better organized interests had their fill.

"Every American interested in the public school, every individual or organization believing in the separation of church and state, all who are able to put principle ahead of price, should stir themselves now to stop these growing attacks. Watch the measures proposed in your own State legislatures. Scan them closely, for some which may seem innocent have a concealed and ulterior purpose. Write your Senators and Representatives in Congress insisting that any educational appropriations shall be limited to the free public schools."

This editorial not only reveals what is being done by sectarian institutions in violation of our American ideals of a total separation of church and state, and how far our Federal and State governments have drifted from the original moorings of our forefathers, but it points the way back to our heritage of liberty and shows how we may still preserve it if we are diligent and wide awake as we face these encroachments upon our liberties.

Unless these encroachments are arrested and this tendency to form financial unions between the church and state are checked, it will not be long until our government will go the way of all republics in the past, and it will repudiate every fundamental principle of its republican form of government, every constitutional guaranty of human rights, and its ideals of a total separation of church and state. A financial union between the church and the state is far worse than a political union. It will bring a more bitter humiliation to the church and religion and greater embarrassment to the state than any other alliance between the church and the state. Let the church ponder the dangerous course upon which it has

embarked. It cannot afford to travel this route. Government aid ultimately means state control. See what it brought to the church and religion in Russia, in Mexico, in Spain, in Germany, and in every other country where a financial union between the church and state has existed in the past. Let no one flatter himself, that what has happened in other countries can never happen in America. If we start at the same point and follow the same course, we are destined to end at the same terminal. History repeats itself, and few seem to learn any lessons from the mistakes of the past.

We cannot afford to sell a valuable inheritance for a mere mess of pottage. Let us cherish and reverence our constitutional rights, the ideals of separation of church and state, the freedom of conscience in religious matters, and the equality of all religions before the civil law. Those who break down these fundamental principles or override them through subterfuges, are destroying our Republic and their heritage of freedom.

C. S. L.

History Proves

THE BRITISH AND FOREIGN BIBLE SOCIETY'S secretary for the North Andean Agency, J. Y. Beckett, telling of Cajamarca, the place famous in the annals of Peruvian history as the scene of the treachery which gave into Spanish hands the civil lordship and spiritual domination over South American countries, added the following significant statement:

"History has passed its verdict on the scene, and proved again that no spiritual mission is ever successful that links the sword with the Scriptures."—*Reported in The Bible in the World, London, September, 1937.*

How true that statement is! Every experiment of linking the sword with the cross, has resulted in the retrogression of civilization. The cross is God's emblem of His supreme love for sinners, and the sword is the very antithesis of all that the cross signifies. Religion advances on the principle of love, while the sword rules by force. Whenever the church and the state unite in their functions, the objectives of each are frustrated and civilization is retarded. Such unholy alliances always revert to the unsavory and intolerant methods of the Dark Ages and the oppression of mankind.

C. S. L.

THE churches of Christianity and Judaism, in charity for each other, may present a united front and not be uniform; they may agree, and yet be divergent.

HYPOCRISY masquerading in the cloak of piety is the most detestable exhibition of human nature.

Mayor Opposed the Sunday Laws

A MAYOR of a New England city where the Sunday blue laws have held sway, at least in letter, upon the statute books for the last two hundred years, gives his reasons as follows for signing a repeal ordinance:

"A fundamental principle, it seems to me, is involved in this legislation, and that is, shall the individual have reasonable freedom of choice? Basic human rights are not the result of statutory enactment. They have been earned, not given. We have them because of the toil, the suffering, the struggles of millions of men over countless years. They follow human experience. They are superior to law. They represent the triumph of ideas and ideals. They are the very foundation stones on which our legal government structure has been built. They are the priceless heritage of centuries of conflict and strife.

"Free speech, a free press, the right to petition and . . . assembly,—certainly these are the very breath of our existence. Can it be doubted that freedom of choice by the individual is as sacred and as necessary to our living?

"Armed with these great instruments of human progress, the race has come to its present high position. True it is that they have been the means of relentless competition, of constant and never-ceasing struggle. But they have produced moral fiber; they have made a people self-reliant. They have made the individual the master of his own destinies.

"The power man has gained through the ages has been because of freedom, and not compulsion. If some people mistake liberty for license, liberty is none the less valuable.

"The individual, I think, should have the right to do as he chooses, as long as he does not interfere with the rights of others. Who has the right to disturb him in the free exercise of his fundamental privilege? He is a free agent, with an inherent right to conduct his life as his conscience dictates. The ordinance does away with the restrictions that impede the free movement that he should possess. It is sound in principle and in keeping with the rights of the individual. It is for this reason that I give it my approval.

"It has been asserted that the determination should be made on the basis of a referendum. I do not think so. Nobody would seriously contend that one's neighbor should have the right to restrict his freedom of choice, his right to determine for himself what he shall do. If we agree that one person should be denied that right, the same reasoning must hold true as to a hundred or a thousand people. Human rights are not to be granted or denied by a mere counting of noses."

This is very cogent and logical reasoning. Religious questions are not to be settled by a majority vote, as we settle civic questions. If our cities and States would put into force the State constitutions, which guarantee absolute religious freedom to the individual, every compulsory Sunday-observance law would be automatically stricken from the civil statute books. Such laws contravene the State constitutions, which expressly prohibit the enactment and enforcement of any religious obligation, and make religion a matter of individual choice.

C. S. L.

The Whence, the What, and the Why of Our Constitution

(Continued from page 6)

Ten years before that time, while Henry III was absent from England, his queen and the Earl of Cornwall commanded the sheriffs to cause "to come before the King's Council at Westminster two lawful and discreet knights from each county, whom the men of the county shall have chosen for this purpose *in the place of all and each of them*, to consider together with the knights of other counties what aid they will grant to the king." This is the beginning of representative government, but nobody had said, "Let us have a representative government and do it this way." Nobody had worked out that scheme before it was put into operation; no political philosopher had suggested that it was wise. It came as a matter of necessity, of practical, common sense in dealing with an actual situation. The people had to be consulted. All the people could not attend. That is the reason we have a representative system of government with us now. A representative system of government is the same democracy which has outgrown itself.

The government which Tacitus saw in operation was the same form of government we now have, except that the units of government in his time were small enough for all the people to attend. Now, all the people cannot attend in person. They attend through their representatives. It is the same principle of government, modified by necessity but not changed in essence. De Montfort, in addition to the summons of two knights from each shire, summoned two citizens from each city and two burgesses from each borough. This meeting had to do with taxes also.

Beginning of Parliament Government

In 1295 Edward I summoned what was clearly a parliament in the making, as we understand a parliamentary body today. At this parliament the lords temporal and the lords spiritual were assembled. These lords spiritual each brought two minor members of the clergy, and there were chosen representatives of the people. The summons issued by Edward I on October 3, 1295, is recorded in the first volume of recorded Parliamentary Writs. It recites that the king intended "to hold a Parliament with the Earls, Barons and other 'proceres' of the Kingdom, for which purpose they had been summoned to come to the King on Sunday next after the feast of Saint Martin, 13 Nov." The writ then commands the sheriff that he should cause "to be elected of his county two knights, and of every city of the same county two citizens, and of every borough two burgesses, and cause them to come to the King at the

same time and place, so that the Knights should have sufficient power for themselves and the 'Communitas' of the Shire, and the Citizens and Burgesses for the 'Communitates' of their respective cities and boroughs to do what by common council should be ordained in the premises." Such writs were issued to all the sheriffs of England.

It would be well for us to stop and look also at that assembly as we did at the one of which Tacitus gave us such a clear vision. Here they are, all together. The lords temporal, the lords spiritual, with a number of little preachers scattered among them, the knights, the citizens and the burgesses, all these representatives of the people. The king and his associates wanted to know how much money these representatives of the people, on the part of the people, would pledge in aid of the central government. They were all there together. Only one house of parliament, of course, undeveloped and loosely composed, but they were all there together.

Beginning of Two Houses of Parliament

After a while they had two houses of parliament. It is interesting how that came about. Nobody said, "Let's have two houses of parliament." Of course, we weren't there, but we can visualize exactly how it happened. We know how the little preachers got out of the picture. We know that when they were first summoned to go up with the lords spiritual, their wives and families talked about it a great deal, and the people of the churches made up purses, probably bought them new suits of clothes and dressed them up pretty well. They probably preached special sermons the Sunday before they left and had pretty big crowds out to hear them. But when they got up to the seat of government, with all the assembled knights and lords, and the king, they found they did not amount to so much. Doubtless they tried to break in on conversations here and there, but they were elbowed out, and after a while the clothes which they strutted around in when they first got there became shabby, and Johnny got sick at home and the wife wrote about it, and now and then some one of the little preachers would get a letter from home saying that since he had been gone a young preacher was supplying in his pulpit and was making a good impression and eating pretty often at the house of the person who really controlled the situation.

So it wasn't long until they had all gone home. The representatives of the people who stayed on soon found that they could not discuss their matters satisfactorily with all the nobility standing around, and so they began meeting off at first one place and then another. Probably at some tavern, but that was not satisfactory. And after a while somebody discovered a vacant room, and arrangements were made to have

it permanently. Some one looked in on the scene and there were two Houses of Parliament. Nobody said, "Let us have a two-house Parliament." It was a perfectly natural development.

Beginning of Independent Judiciary

Nobody ever said in advance, "Let us have a separate, independent judiciary as one of the coordinate branches of government." We know definitely how that came about. The judges were appointed by the king. They held office during the pleasure of the king. From time to time there came to be complaints that the king was controlling the judgments of the courts. For a considerable period of time there was much complaint about it, much agitation, and finally when William and Mary came to the throne, after Cromwell, it was provided in the Act of Settlement (1701) that judges should hold office during good behavior.

Our first reaction probably is that that was of importance only to the people on the other side of the Atlantic, that it was something which happened with reference to their constitution. But that was our Constitution also. We must hold on to that fact if we are to understand our Constitution.

Later it was held that the judges' commissions terminated with the death of the sovereign. That brought about renewed agitation. So when George III became king, as one of the first acts thereafter, it was made the law that the judges should hold office during good behavior, notwithstanding the demise of the king. When we came to write our Constitution shortly afterward, we brought forward this identical arrangement and incorporated it in our written Constitution, as we shall see later. But it became a part of our Constitution on this side of the ocean at the same time it became a part of the constitution on the other side of the ocean. On both sides we had the same Constitution.

Our Constitution Outgrowth of Former Bills of Rights

It is necessary to have this central thought in mind all the time, to fasten it there, in order properly to understand our own constitutional development. It is also necessary to know that our written Constitution, as well as the preceding documents, such as the Magna Charta (1215), the Petition of Rights (1628), the Bill of Rights (1689), and the Acts of Settlement (1701), after William and Mary came to the throne, as well as some of the fundamental acts of the Long Parliament, in a most definite sense were not creative, but were things that had been claimed for a long time by the people. These and various lesser and local charters were but the formal recognition of and formal consent to an attempt to fix and

make certain that which already had gone forth from the consciences of the people, supported by a purpose and a strength which could not be successfully resisted.

Limitations of Law

JUDGE EDWARD F. HANIFY, of the Massachusetts Superior Court, in speaking before the Norfolk Bar Association recently, gave the legal profession some timely counsel on the limitations of law and law-makers. Most lawyers and many judges believe so profoundly in the omnipotence and absolute supremacy of law that it certainly is refreshing to hear a jurist of high repute tell the legal fraternity about the limitations of law. Judge Hanify said:

"Edicts of an all-powerful state cannot take the place of the ten commandments, nor will comprehensive legislation do the work of the individual conscience. The law may provide social security, but it cannot provide spiritual security. It may secure pensions to the aged, but it cannot make old age serene and confident of immortality. It may permit the creation of artificial units known as corporations, but the preservation of the basic social unit—the family—ultimately depends upon the responsibility of the individual citizens."

Jurists, lawyers, and laymen alike need to be reminded continually that human laws cannot, in justice, contravene divine laws or the laws of natural rights. There is a tendency in all of us to be popish or kingly, whenever power is entrusted to our hands. Not infrequently we come in contact with Congressmen who believe they possess the prerogative to legislate upon every subject under heaven, and that they possess the power to control and regulate by law every human activity, not only in man's relation to man, but in his duties toward God and religion. They are unaware of constitutional inhibitions, and feel greatly annoyed when the Supreme Court declares their legislative acts unconstitutional.

Our forefathers who framed the American Constitution possessed the wisdom and foresight which has never been excelled by any other lawmaking body, when they placed limitations upon the highest law-making bodies in the land, and made all public officials subordinate to the rights of the people under the Constitution.

Any law which is in conflict with the ten commandments, the divine law of Heaven, has no validity in justice, and no citizen is bound to obey it. If any officer of the law commands a citizen, in the name of the state, to do an act which is in violation of a plain "Thus saith the Lord," that citizen is justified in the sight of Heaven to obey God rather than men. Fortunately, in the Republic of the United States, no

citizen, no matter how humble his station in life,—thanks to the Constitution,—can be compelled to yield obeisance to the absolute power of any public official so long as the Constitution and the Supreme Court protect the individual in the enjoyment of his natural and God-given rights. Just as soon as the barriers erected by our forefathers in the Constitution in defense of individual rights are broken down, the glory of the American Republic will depart from the temple of liberty and justice, and tyranny will be enthroned. Let us therefore take alarm at every encroachment upon our natural rights, and resist every weakening of the legal barriers which limit the powers of civil government to prescribed areas of jurisdiction and jurisprudence under our Constitution.

C. S. L.

NEWS and COMMENT

THE voters of Howard County, Maryland, brushed aside another Maryland Sunday "blue law" when a substantial majority voted in favor of Sunday movies. One city and county after another have now repealed their Sunday laws which forbade amusements and recreation on Sundays. The city of Baltimore repealed its Sunday laws prohibiting Sunday movies and baseball in 1932 by a majority of 85,000 votes.

The Ohio Sunday Case

THE Supreme Court of Ohio, in a recent decision, held that the Sunday law closing grocery stores in the Toledo case was unconstitutional. It ruled that the sale of foodstuff was one of the necessities of life, and therefore legal, in spite of the Sunday-closing law to the contrary. This decision is in harmony with the decision of the Supreme Court of the United States, holding that the NRA was unconstitutional, inasmuch as the government had no right to restrict hours of operation of dealers in necessary foods.

Ministerial Association of Spokane

THE Spokane Ministerial Association appointed a "secret committee of six" to do detective work on Sundays, spying out those who violated the Sunday law of their city, and bringing about the conviction of offenders. A similar movement was inaugurated in Walla Walla. A grocer was arrested for selling the necessities of life on Sunday. He demanded a jury trial, and was acquitted. The preachers who go into the detective business to prosecute offenders of a religious law, would do well to consider the advice of Benjamin Franklin: "When religion is good, it will take care of itself; when it is not able to take care of itself, and God does not see fit to take care of it, so that it has to appeal to the civil power

FIRST QUARTER

for support, it is evidence to my mind that its cause is a bad one."

SPARKS from the Editor's Anvil

LIBERTY is secure only so long as eternal vigilance guards it.

MY freedom I must make the measure of every other man's freedom, both civil and religious.

MY liberties are safe only so long as the liberties of all are safe.

SOUND reason flies out of the window when uncontrolled passion comes in by the door.

AN ideal is not worth living for unless we are willing to die for it.

A TOTALITARIAN ruler holds that the state has a right to dominate the minds of all men in all things.

THE true object of all government should be to protect all men in the enjoyment of their natural, God-given rights.

CHAOTIC changes always imperil the blood-bought heritage of liberty.

THE price of liberty is never too high, no matter what the cost.

MANY people are willing to die for the Constitution, but are not willing to live by it.

THE ideals which have made America great were born in the temple of human freedom.

THE path which leads to the citadel of liberty is steep and perilous, beset with a thousand foes.

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Our Flag

by

C. S. LONGACRE

*We hail our flag of liberty!
Its folds in hues resplendent spread;
The blue for truth and loyalty,
The crimson red for blood we shed,
The spotless white for purity.*

*Our flag has never known defeat.
Its staff e'er stands on holy ground;
Its cause is just, its mission meet,
Its principles of right are sound,
Its every star with hope replete.*

*Thank God, this flag, in every clime,
Upholds the right, condemns the wrong,
Sustains the just, denounces crime,
Defends the weak against the strong,
Its purpose high, its aim sublime.*

*Long may it wave o'er our fair land,
A diadem of stainless fame;
Fit symbol of our freedom grand,
For aye aglow with glory's fame,
Securely held in God's own hand.*

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